

# **EXHIBIT 3**

Confidential - Mathew Thomas, Jr., M.D.

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IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

MATHEW THOMAS, JR., : NO.  
Plaintiff : 2:13-CV-03946-CMR  
 :  
vs. :  
 :  
NATIONAL BOARD OF :  
MEDICAL EXAMINERS and :  
EDUCATIONAL :  
COMMISSION FOR :  
FOREIGN MEDICAL :  
GRADUATES, :  
Defendants :

- - -

Friday, January 10, 2014

- - -

CONFIDENTIAL

Deposition of MATHEW THOMAS, JR.,  
M.D. taken in the Offices of Golkow  
Technologies, One Liberty Place, 1650  
Market Street, Suite 5150, Philadelphia,  
Pennsylvania, on the above date,  
commencing at 9:35 a.m. before Lauren A.  
Moore, Registered Merit Reporter and  
Certified Realtime Reporter.

GOLKOW TECHNOLOGIES, INC.

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<p>1 MATHEW THOMAS, JR., M.D.,</p> <p>2 after having been duly sworn, was</p> <p>3 examined and testified as follows:</p> <p>4 * * *</p> <p>5 EXAMINATION</p> <p>6 BY MS. HOLLAND:</p> <p>7 Q. Dr. Thomas, can you</p> <p>8 introduce yourself for the record using</p> <p>9 your first name and last name?</p> <p>10 A. My name is Mathew Thomas,</p> <p>11 M-A-T-H-E-W, Thomas, T-H-O-M-A-S.</p> <p>12 MS. HOLLAND: And, for the</p> <p>13 record, my name is Maureen</p> <p>14 Holland, H-O-L-L-A-N-D, and I'm</p> <p>15 here representing the National</p> <p>16 Board of Medical Examiners.</p> <p>17 MS. McENROE: And I'm Elisa</p> <p>18 McEnroe, M-C-E-N-R-O-E, here on</p> <p>19 behalf of the Educational</p> <p>20 Commission for Foreign Medical</p> <p>21 Graduates.</p> <p>22 BY MS. HOLLAND:</p> <p>23 Q. Now, Dr. Thomas, I</p> <p>24 understand that you are not currently</p>	<p>1 clarification on that question, and we'll</p> <p>2 be happy to clarify the question for you.</p> <p>3 A. Okay.</p> <p>4 Q. And it's perfectly fine to</p> <p>5 take breaks during the deposition. Just</p> <p>6 let us know if you'd like to take a break</p> <p>7 before our next question. In other</p> <p>8 words, while a question is pending we</p> <p>9 don't want to say, all right. Let's take</p> <p>10 a ten-minute break.</p> <p>11 Do you understand everything</p> <p>12 I said so far?</p> <p>13 A. I do.</p> <p>14 Q. And are you on any</p> <p>15 medications that impair your memory,</p> <p>16 speech or ability to concentrate today?</p> <p>17 A. No.</p> <p>18 Q. Is there any other reason</p> <p>19 why you can't give truthful, accurate and</p> <p>20 complete testimony today?</p> <p>21 A. I did have one trauma</p> <p>22 Sunday, slip and fall, hit my head, but I</p> <p>23 don't think it will affect.</p> <p>24 Q. Are you on any medications</p>

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<p>1 for the slip and fall?</p> <p>2 A. No.</p> <p>3 Q. And you do understand that</p> <p>4 you are under oath currently?</p> <p>5 A. I do.</p> <p>6 Q. And you understand your</p> <p>7 obligation to tell the truth --</p> <p>8 A. I do.</p> <p>9 Q. -- today in your deposition?</p> <p>10 A. I do.</p> <p>11 Q. So, Dr. Thomas, you are</p> <p>12 appearing here today pursuant to a notice</p> <p>13 of deposition that was sent to you. Is</p> <p>14 that right?</p> <p>15 A. That is correct.</p> <p>16 Q. And in your exhibit book</p> <p>17 that you have in front of you, I'm going</p> <p>18 to ask you to turn to Exhibit 4, and</p> <p>19 you're looking at the amended notice of</p> <p>20 deposition. Is that right?</p> <p>21 A. That is correct.</p> <p>22 Q. And on Exhibit 4 do you see</p> <p>23 a list of items? There are 13 items</p> <p>24 enumerating things that we had asked to</p>	<p>1 take a quick break? Let's go off</p> <p>2 the record.</p> <p>3 (A discussion was held off</p> <p>4 the record.)</p> <p>5 (A short break was taken.)</p> <p>6 BY MS. HOLLAND:</p> <p>7 Q. Dr. Thomas, we took a short</p> <p>8 break so that you could go down to your</p> <p>9 car and retrieve some items. I do want</p> <p>10 to remind you that you're still under</p> <p>11 oath.</p> <p>12 A. I understand.</p> <p>13 Q. I just want to go back to a</p> <p>14 few things. You said that you were</p> <p>15 deposed about a month ago. What was that</p> <p>16 in reference to?</p> <p>17 A. That was for a car accident.</p> <p>18 Q. And are you a plaintiff or a</p> <p>19 defendant in that lawsuit?</p> <p>20 A. I'm the plaintiff in that.</p> <p>21 Q. And where did that car</p> <p>22 accident take place?</p> <p>23 A. New York City. Manhattan.</p> <p>24 Q. Do you know the date?</p>
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<p>1 bring with you here today. Is that</p> <p>2 right?</p> <p>3 A. Yes.</p> <p>4 Q. Did you bring those items</p> <p>5 with you?</p> <p>6 A. I did for most of them, and</p> <p>7 I have a response to those that I do not</p> <p>8 have.</p> <p>9 Q. Let's go through those in</p> <p>10 turn then. So starting with number one,</p> <p>11 the score reports. Did you bring those</p> <p>12 with you today?</p> <p>13 A. I do have, I believe, more</p> <p>14 of a list because I cannot access Oasis,</p> <p>15 and I didn't keep all my score reports.</p> <p>16 I have my score report from my 2000 -- my</p> <p>17 Step 2, the pass.</p> <p>18 Q. Okay.</p> <p>19 A. I think I may have left that</p> <p>20 in my car. I had another binder with</p> <p>21 other score reports in it. I believe</p> <p>22 that's in the car. I'll have to bring</p> <p>23 that back up to you.</p> <p>24 MS. McENROE: How about we</p>	<p>1 A. November 12th, 2007, I</p> <p>2 believe.</p> <p>3 Q. 2007?</p> <p>4 A. I believe so.</p> <p>5 Q. Are you the plaintiff in any</p> <p>6 other lawsuits?</p> <p>7 A. No.</p> <p>8 Q. Have you been in the past?</p> <p>9 A. Once in the past before</p> <p>10 that. It was another car accident.</p> <p>11 Q. And where was that one?</p> <p>12 A. That was in Queens, New</p> <p>13 York.</p> <p>14 Q. And do you remember when</p> <p>15 that was?</p> <p>16 A. It was in 2001, somewhere</p> <p>17 around, first couple years in 2000.</p> <p>18 Q. And in what court did you</p> <p>19 bring the first lawsuit, the one in</p> <p>20 Queens?</p> <p>21 A. I believe it was through</p> <p>22 Staten Island, but that case got</p> <p>23 dismissed.</p> <p>24 Q. And did you sue in the name</p>

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<p>1 Mathew Thomas, Jr.?</p> <p>2 A. Yeah.</p> <p>3 Q. And where did you bring the</p> <p>4 second lawsuit that happened in New York</p> <p>5 City?</p> <p>6 A. The second lawsuit started</p> <p>7 out in New York City and then the lawyers</p> <p>8 all changed the venue over to Staten</p> <p>9 Island so, currently, it's pending there.</p> <p>10 Q. And did you have a lawyer</p> <p>11 for -- that represented you in the</p> <p>12 lawsuit connected to the Queens accident?</p> <p>13 A. Yes, I did.</p> <p>14 Q. Who was that lawyer?</p> <p>15 A. Matthew Santamauro.</p> <p>16 Q. And how about for the car</p> <p>17 accident that happened in New York City?</p> <p>18 A. It was Louis Galgano.</p> <p>19 Currently, it's John -- I have to check</p> <p>20 my phone for the last name. It's an</p> <p>21 Irish name.</p> <p>22 Q. And how did you find those</p> <p>23 lawyers for those lawsuits?</p> <p>24 A. The family lawyer is --</p>	<p>1 emergency room at Staten Island</p> <p>2 University Hospital, had the cut managed</p> <p>3 as well as a CT scan.</p> <p>4 Q. Have you gotten the results</p> <p>5 of your CT scan back?</p> <p>6 A. Yes. They were okay.</p> <p>7 Q. Did you experience any pain?</p> <p>8 A. Yes.</p> <p>9 Q. A lot of pain?</p> <p>10 A. Yeah. Yes.</p> <p>11 Q. Are you prescribed anything</p> <p>12 for that pain?</p> <p>13 A. No. I declined.</p> <p>14 Q. Any follow-up treatment</p> <p>15 other than the CT scan?</p> <p>16 A. No. Just I haven't been at</p> <p>17 work all week so it's just rest.</p> <p>18 Q. And do you plan to file a</p> <p>19 lawsuit in that case --</p> <p>20 A. No.</p> <p>21 Q. -- in relation to the slip</p> <p>22 and fall?</p> <p>23 A. No.</p> <p>24 Q. A few other preliminary</p>
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<p>1 Matthew Santamauro is a family lawyer,</p> <p>2 and John I was referred, after I was</p> <p>3 having issues with the other lawyer,</p> <p>4 through co-workers.</p> <p>5 Q. When you say that Matthew</p> <p>6 Santamauro was a family lawyer, what do</p> <p>7 you mean by that?</p> <p>8 A. We've had other -- my uncle</p> <p>9 is very good friends with him for all his</p> <p>10 business needs so...</p> <p>11 Q. You also mentioned -- were</p> <p>12 there any other lawsuits that you were a</p> <p>13 party to?</p> <p>14 A. Not that I remember.</p> <p>15 Q. You also mentioned that on</p> <p>16 Sunday, this past Sunday you were</p> <p>17 involved in a slip and fall?</p> <p>18 A. Yes.</p> <p>19 Q. Where did that occur?</p> <p>20 A. In front of my house in</p> <p>21 Staten Island.</p> <p>22 Q. And can you tell us whether</p> <p>23 you sought any medical treatment?</p> <p>24 A. I did. I went to the</p>	<p>1 questions that I want to ask you. What</p> <p>2 is your date of birth?</p> <p>3 A. November 28th, 1977.</p> <p>4 Q. And what's your home</p> <p>5 address?</p> <p>6 A. 31 Roosevelt Avenue, Staten</p> <p>7 Island, New York, 10314.</p> <p>8 Q. Who do you live with?</p> <p>9 A. My spouse, my kids and my</p> <p>10 parents.</p> <p>11 Q. How many kids do you have?</p> <p>12 A. I have a stepson and a son</p> <p>13 and one on the way.</p> <p>14 Q. And what does your spouse</p> <p>15 do?</p> <p>16 A. She's a housewife.</p> <p>17 Q. Is she the person that</p> <p>18 attended the hearing?</p> <p>19 A. No.</p> <p>20 Q. Who was that person?</p> <p>21 A. That was a colleague of</p> <p>22 mine.</p> <p>23 Q. A colleague from your</p> <p>24 current work?</p>

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<p>1 A. Yes.</p> <p>2 Q. What is her name?</p> <p>3 A. Salvatrice Scerbo.</p> <p>4 Q. Where were you born?</p> <p>5 A. Staten Island, New York.</p> <p>6 Q. And so you're a United</p> <p>7 States citizen?</p> <p>8 A. Yes, I am.</p> <p>9 Q. Are you a citizen of any</p> <p>10 other country?</p> <p>11 A. I have an OCI card for</p> <p>12 India. It's not really dual citizenship,</p> <p>13 but it gives me the right to own property</p> <p>14 in India if I want.</p> <p>15 Q. Do you own any property in</p> <p>16 India?</p> <p>17 A. No, I don't. Currently, no.</p> <p>18 Q. Have you in the past?</p> <p>19 A. No. My father has some</p> <p>20 property that may wind up coming down to</p> <p>21 me as time goes on.</p> <p>22 Q. Have you ever been arrested?</p> <p>23 A. Yes, I have.</p> <p>24 Q. Tell me about the first time</p>	<p>1 Q. Third time?</p> <p>2 A. Driving under the influence.</p> <p>3 Q. Is there a fourth time?</p> <p>4 A. No.</p> <p>5 Q. Were you ever arrested for</p> <p>6 anything other than driving under the</p> <p>7 influence?</p> <p>8 A. No.</p> <p>9 Q. And did all of those occur</p> <p>10 in New York?</p> <p>11 A. Yes. New York meaning Long</p> <p>12 Island, New York, not New York City.</p> <p>13 Q. Right. Were you convicted</p> <p>14 of driving under the influence?</p> <p>15 A. I had one misdemeanor, two</p> <p>16 violations.</p> <p>17 Q. One misdemeanor. So two</p> <p>18 misdemeanor convictions?</p> <p>19 A. No. One was considered a</p> <p>20 misdemeanor. Two of them were considered</p> <p>21 violations.</p> <p>22 Q. Did you lose your license?</p> <p>23 A. Yes, I did.</p> <p>24 Q. For how long?</p>
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<p>1 you were arrested, when was that?</p> <p>2 A. If I may ask, what's the</p> <p>3 relevance to the case?</p> <p>4 Q. Because there may be some</p> <p>5 reasons under the rules of evidence that</p> <p>6 it becomes important for the Court to</p> <p>7 hear about any prior criminal contacts</p> <p>8 that you've had.</p> <p>9 You're going to be a witness</p> <p>10 in the case, and your credibility is an</p> <p>11 issue in the case. Any person who is a</p> <p>12 witness, credibility is an issue in the</p> <p>13 case. Okay?</p> <p>14 A. Okay.</p> <p>15 Q. So tell me about the first</p> <p>16 time that you were arrested. When was</p> <p>17 that?</p> <p>18 A. I don't remember the exact</p> <p>19 year. It was driving under the</p> <p>20 influence.</p> <p>21 Q. How about the second time</p> <p>22 you were arrested?</p> <p>23 A. Again, driving under the</p> <p>24 influence.</p>	<p>1 A. I think six months and then</p> <p>2 a year.</p> <p>3 Q. Did the DUIs occur while you</p> <p>4 were in school?</p> <p>5 A. I don't believe so. I think</p> <p>6 they were all post graduation.</p> <p>7 Q. Post graduation from medical</p> <p>8 school?</p> <p>9 A. From medical school. I</p> <p>10 think they were all after 2003.</p> <p>11 Q. You indicated that you don't</p> <p>12 remember the exact year, but do you</p> <p>13 remember the time when your license was</p> <p>14 suspended?</p> <p>15 A. Well, I remember the last</p> <p>16 one. The last one happened in 2009. The</p> <p>17 two before that were well before that, so</p> <p>18 I don't remember the exact dates.</p> <p>19 Q. So 2009 was the last one and</p> <p>20 then the other two, were they --</p> <p>21 A. They were about five or so</p> <p>22 years before that.</p> <p>23 Q. So maybe 2004?</p> <p>24 A. I think around three, four,</p>

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<p>1 around, but I can't say with certainty.</p> <p>2 Q. Have you ever testified in</p> <p>3 court before?</p> <p>4 A. Yes, I have.</p> <p>5 Q. And was that in reference to</p> <p>6 the two cases that you told us about?</p> <p>7 A. That was in reference to the</p> <p>8 last case, 2009.</p> <p>9 Q. Any other cases that you</p> <p>10 testified in court before?</p> <p>11 A. No.</p> <p>12 Q. Have you ever filed for</p> <p>13 bankruptcy?</p> <p>14 A. No.</p> <p>15 Q. And who, if anyone, have you</p> <p>16 spoken to about your lawsuit in this</p> <p>17 case?</p> <p>18 A. Nobody. Only counsel.</p> <p>19 Q. When you say only counsel,</p> <p>20 what do you mean?</p> <p>21 A. I have a lawyer. I had a</p> <p>22 lawyer, Rebecca -- I forget her last</p> <p>23 name -- that I had hired out of the</p> <p>24 Midwest and then another family lawyer</p>	<p>1 look in your exhibit binder at Exhibit</p> <p>2 21. Do you recognize Exhibit 21?</p> <p>3 A. Yes, I do.</p> <p>4 Q. What is that?</p> <p>5 A. This is the transcript to</p> <p>6 the hearing that I had December 16th of</p> <p>7 2009.</p> <p>8 Q. And do you remember</p> <p>9 testifying at this hearing?</p> <p>10 A. Very much.</p> <p>11 Q. Were you under oath at this</p> <p>12 hearing?</p> <p>13 A. Yes, I was.</p> <p>14 Q. And did you give truthful</p> <p>15 answers at the hearing?</p> <p>16 A. I did.</p> <p>17 Q. Did you give accurate</p> <p>18 answers at the hearing?</p> <p>19 A. I did.</p> <p>20 Q. As you read over the</p> <p>21 transcript in preparation for today, did</p> <p>22 you notice any mistakes in the</p> <p>23 transcript, any typographical errors?</p> <p>24 A. There are some typographical</p>
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<p>1 that I sought advice.</p> <p>2 Q. But neither of those lawyers</p> <p>3 are representing you?</p> <p>4 A. No.</p> <p>5 Q. Have you posted anything</p> <p>6 online about the case?</p> <p>7 A. No.</p> <p>8 Q. Do you use Facebook?</p> <p>9 A. I do use Facebook.</p> <p>10 Q. Have you posted anything on</p> <p>11 Facebook about the case?</p> <p>12 A. No.</p> <p>13 Q. How about any message</p> <p>14 boards?</p> <p>15 A. No.</p> <p>16 Q. So in preparation for today</p> <p>17 what did you do to prepare?</p> <p>18 A. Basically, went over just</p> <p>19 the transcript from my hearing, went back</p> <p>20 and forth with the letters that had been</p> <p>21 written by Ms. Detich as well as my</p> <p>22 appeal and, basically, that was it.</p> <p>23 Q. When you say you went over</p> <p>24 the transcript, I'm going to ask you to</p>	<p>1 errors. I did notice some.</p> <p>2 Q. Did any of the typographical</p> <p>3 errors that you noticed change the</p> <p>4 meaning of any of your answers?</p> <p>5 A. No.</p> <p>6 Q. Did any of the typographical</p> <p>7 errors change the meaning of any of the</p> <p>8 questions?</p> <p>9 A. No.</p> <p>10 Q. Is it fair to say that all</p> <p>11 of the -- all of the answers that you</p> <p>12 gave to the questions in this transcript</p> <p>13 are true?</p> <p>14 A. Yes.</p> <p>15 Q. Did you meet with an</p> <p>16 attorney in preparation for today?</p> <p>17 A. For today? No.</p> <p>18 Q. What do your parents do?</p> <p>19 A. Both retired.</p> <p>20 Q. And what did they retire</p> <p>21 from?</p> <p>22 A. Dad was an electrician.</p> <p>23 Mother was an LPN.</p> <p>24 Q. Do you have siblings?</p>

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<p>1 A. Yes, I do. Two sisters.  2 Q. What do they do?  3 A. One is a social worker. One  4 is in marketing.  5 Q. Are you working now?  6 A. Yes, I am.  7 Q. Where do you work?  8 A. I work for St. Barnabas  9 Hospital in the Bronx, but I work at  10 their off-site clinic, Southern Medical  11 Group.  12 Q. It's called Southern Medical  13 Group?  14 A. Yes.  15 Q. What do you do there?  16 A. I'm the site administrator.  17 Q. What are the duties of the  18 site administrator?  19 A. I run the whole center.  20 Q. When you say you run the  21 whole center, what does the center do?  22 A. I manage the center. We see  23 patients in different specialties, so I  24 take care of both the registration, daily</p>	<p>1 A. No.  2 Q. Who is your  3 supervisor -- your current supervisor?  4 A. It's the senior VP at St.  5 Barnabas for ambulatory care, Pat Belair.  6 Q. How do you spell Pat's last  7 name?  8 A. Patricia Belair,  9 B-E-L-A-I-R.  10 Q. And how long have you worked  11 there?  12 A. September 2012, so a year  13 and four months now.  14 Q. Do you work anywhere else  15 now?  16 A. Yes, I do.  17 Q. Where else do you work?  18 A. I work at Technical Career  19 Institute as an instructor. I work at  20 St. Paul's School of Nursing as an  21 instructor, and starting next week I'll  22 be teaching at Metropolitan College of  23 New York, MCNY, also as an instructor.  24 Q. You're quite busy.</p>
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<p>1 operations, billing, everything that's  2 involved in running a facility.  3 Q. How big a facility is it?  4 A. It's -- in terms of size or  5 in terms of patient volume?  6 Q. In terms of patient volume?  7 A. I would say we see close to  8 a thousand patients a month.  9 Q. And how many people do you  10 supervise?  11 A. Including physicians,  12 approximately 18 to 20.  13 Q. About how many of those 18  14 to 20 are physicians?  15 A. About five.  16 Q. And are those all the  17 physicians on staff at the Southern  18 Medical Group?  19 A. No. There are other  20 physicians who rent space who report to  21 me indirectly, but they don't report to  22 me.  23 Q. Do you provide any patient  24 care?</p>	<p>1 A. I have no choice. I have a  2 housewife.  3 Q. I'm sorry. You said  4 Metropolitan?  5 A. College of New York. MCNY  6 is what they go by.  7 Q. Let me take these in turn  8 then. So you told us about your  9 responsibilities at the Southern Medical  10 Group.  11 What will you be teaching at  12 the Technical Career Institute?  13 A. This semester will be  14 medical/legal issues as well as  15 healthcare systems.  16 Q. Have you taught there  17 before?  18 A. Yes. I've been teaching  19 there since 2010, I believe.  20 Q. Continuously?  21 A. Continuously.  22 Q. Medical and legal issues.  23 Do you prepare the syllabus for that  24 class?</p>

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<p>1 A. The syllabus has kind of 2 been given to us by the department. 3 Those are the classes that I had this 4 semester and last semester. Before that 5 I had different classes. 6 Q. Do you have a supervisor at 7 TCI? 8 A. Currently, no. The dean of 9 our department basically has been 10 promoted and so they have a vacant 11 position for that dean position. 12 Q. Who's the person that you 13 would say you report to at TCI? 14 A. Honestly, I haven't had -- I 15 haven't had to report to anyone. If I 16 had to talk to anyone, maybe the provost. 17 Q. What's that person's name? 18 A. It's Dean Dillon. C. Dillon 19 would be probably the provost. 20 D-I-L-L-O-N. 21 Q. So what exactly are medical 22 and legal issues? 23 A. It's just ethics. It's an 24 ethics class.</p>	<p>1 A. I started last semester. 2 Just I'm a lab -- lab instructor for 3 anatomy and physiology I and II. 4 Q. What kind of school is St. 5 Paul's School of Nursing? In other 6 words, is it an associate's program? A 7 graduate degree? 8 A. I believe it's a bachelor's 9 in nursing. The students who graduate 10 from there are able to take the night 11 class for the LPN and RN. 12 Q. You said you started 13 teaching there in 2013? 14 A. Yes. September. 15 Q. Who's your supervisor? 16 A. Anne Lubrano. 17 Q. How do you spell Lubrano? 18 A. L-U-B-R-A-N-O. 19 Q. And then finally, MCNY, the 20 Metropolitan College of New York. Did 21 you say you're going to be an instructor 22 there? 23 A. I'm going to be teaching 24 classes there.</p>
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<p>1 Q. And who takes the class? 2 A. The students that register 3 for -- well, that's an HIT class so it's 4 healthcare and information technology so 5 students under that major. 6 Q. Are they undergraduates? 7 A. Yeah. This would be an 8 associate's program. 9 Q. An associate's program. Do 10 you have any legal training? 11 A. For...? 12 Q. Just in general? 13 A. Legal training, no. 14 Q. You're not a lawyer or 15 anything? 16 A. No. 17 Q. Do you teach that course on 18 your own or do you co-teach it with 19 someone? 20 A. On my own. 21 Q. Moving onto St. Paul's 22 School of Nursing. You indicated you're 23 an instructor there. Can you tell us 24 what you teach?</p>	<p>1 Q. What class? 2 A. I haven't got a finalized 3 schedule but, tentatively, it seems like 4 it's going to be medical terminology and 5 possibly anatomy and physiology. 6 Q. Is that a bachelor's 7 program? Associate program? 8 A. That's a bachelor's program. 9 It's a four-year college. 10 Q. How many hours per week do 11 you currently work? 12 A. Right now? 13 Q. Yeah. 14 A. Officially or including time 15 that we put, like -- you know, I'm salary 16 so, basically, I'm going to put in more 17 hours than my regular 9:00 to 5:00. 18 Q. Well, just approximate the 19 number of hours that you work total. 20 A. Probably 12 to 14 a day. 21 Q. Five days a week? 22 A. Well, with the MCNY I'll be 23 teaching Saturday, too, so it will be six 24 days.</p>

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<p>1 Q. You mentioned that you're on 2 a salary. What is your current salary at 3 St. Barnabas Southern Medical Group? 4 A. It's approximately 92,000 5 and change. 6 Q. And what's your salary at 7 TCI? 8 A. We make 65 an hour. 9 Q. So that one is hourly? 10 A. Hourly, yes. 11 Q. And St. Paul's School of 12 Nursing? 13 A. Is 32 an hour. 14 Q. And MCNY? 15 A. I believe it's going to be 16 approximately 60. 17 Q. Did you bring copies of your 18 tax returns? 19 A. No, I did not. 20 Q. So in your current positions 21 are you using your medical training at 22 all? 23 A. No, I'm not. Well, I can't 24 say that. If I'm teaching anatomy</p>	<p>1 this litigation began? 2 A. I have not because I'm not 3 able to. 4 Q. What do you mean you're not 5 able to? 6 A. I'm not able to take the 7 test currently. 8 Q. In your -- you told us about 9 your employment at St. Barnabas, 10 Technical Career Institute, St. Paul's 11 School of Nursing, Metropolitan College 12 of New York. Are there any other jobs 13 that you had since medical school? 14 A. Yes. 15 Q. Where else have you worked? 16 A. I worked at Kaplan in New 17 Jersey. 18 Q. What did you teach at 19 Kaplan? 20 A. I was a CS instructor, 21 clinical skills instructor and patient 22 note grader. 23 Q. And how long did you work at 24 Kaplan?</p>
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<p>1 physiology it would be part of my medical 2 training, and medical terminology would 3 also be part of my medical training. 4 Q. In addition to working, are 5 you currently in any study courses for 6 the USMLE? 7 A. No, I'm not. 8 Q. I know that you didn't bring 9 your tax returns with you, but can you 10 estimate for us what your total income 11 was for last year? 12 A. Approximately, maybe 115. 13 Somewhere between 110 and 115, I believe. 14 Q. How about the year before 15 that? 16 A. It was much lower. It was 17 under a hundred thousand, I believe, the 18 year before. 19 Q. So you're not enrolled in 20 any study courses for the USMLE 21 currently? 22 A. No. 23 Q. What have you done, if 24 anything, to prepare for the USMLE since</p>	<p>1 A. I started, I believe, 2006, 2 and at some point I kind of -- they took 3 me off of payroll around -- I think about 4 a year or two ago. 5 Q. Which Kaplan in New Jersey 6 did you teach at? 7 A. Newark. 8 Q. Any other employment since 9 medical school? 10 A. I worked at New York City 11 Health and Hospital Corporation, HHC. 12 Q. And when did you work there? 13 A. I started in 2009 all the 14 way 'til 2012. 15 Q. What did you do? 16 A. I was first an 17 administrative assistant and then I got 18 promoted to compliance officer. 19 Q. Compliance officer? 20 A. Yes. 21 Q. Any other jobs? 22 A. I worked partially for 23 Optima. 24 Q. When did you work for</p>

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<p>1 Optima?</p> <p>2 A. 2008. For a couple months</p> <p>3 throughout 2008.</p> <p>4 Q. And what was your job at</p> <p>5 Optima?</p> <p>6 A. I just assisted students</p> <p>7 when they first came in. Basically</p> <p>8 setting them up with a station for them</p> <p>9 to study at as well as showing them the</p> <p>10 system that they were supposed to use,</p> <p>11 how to turn the computer on, how to log</p> <p>12 in and then tell them they have to do a</p> <p>13 hundred questions a day.</p> <p>14 Q. I'm going to go back to</p> <p>15 Kaplan. What was your salary or wage</p> <p>16 when you worked at Kaplan?</p> <p>17 A. I think when I was a trainer</p> <p>18 it was 14 an hour and as a patient note</p> <p>19 grader, 11 an hour.</p> <p>20 Q. How about at New York City</p> <p>21 Health and Hospital Corp.?</p> <p>22 A. I was salary there as well.</p> <p>23 I started off at 70,000 and got promoted</p> <p>24 up to about 85,000.</p>	<p>1 A. At the time? He had some</p> <p>2 other instructors that were there.</p> <p>3 Q. Anybody else that did the</p> <p>4 same job that you did?</p> <p>5 A. No. They were actually</p> <p>6 professors. They taught. I didn't</p> <p>7 teach.</p> <p>8 Q. Can you estimate for us how</p> <p>9 much money you made working at Optima?</p> <p>10 A. Maybe a couple thousand.</p> <p>11 Q. Were you working at Optima</p> <p>12 at the same time you were working at</p> <p>13 Kaplan?</p> <p>14 A. I was on payroll at Kaplan.</p> <p>15 I don't remember what hours I was getting</p> <p>16 at the time. Kaplan doesn't run the CS</p> <p>17 course all the time, so it's really only</p> <p>18 when they run the course that you can</p> <p>19 work.</p> <p>20 Q. So you were teaching courses</p> <p>21 at Kaplan, but for Optima you were just</p> <p>22 working the front desk?</p> <p>23 A. That's correct.</p> <p>24 Q. And did you have an</p>
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<p>1 Q. And at Optima what were you</p> <p>2 paid?</p> <p>3 A. It varied. Whatever he</p> <p>4 wanted to give me since I wasn't really</p> <p>5 set with the daily schedule or anything.</p> <p>6 Q. About how much did you make?</p> <p>7 A. I honestly don't remember.</p> <p>8 Q. Did you file a tax return?</p> <p>9 A. No, I did not.</p> <p>10 Q. When you say "he," whatever</p> <p>11 he wanted to give you, who is he?</p> <p>12 A. Suliman. Dr. Suliman who is</p> <p>13 the owner of the program.</p> <p>14 Q. And was he the person that</p> <p>15 you reported to?</p> <p>16 A. Yes.</p> <p>17 Q. Was he the only person you</p> <p>18 reported to?</p> <p>19 A. Yes. Well, he had a wife,</p> <p>20 also, so if she needed anything in his</p> <p>21 absence, but direct report was basically</p> <p>22 to him.</p> <p>23 Q. Who else worked there with</p> <p>24 you?</p>	<p>1 arrangement with either Kaplan or Optima</p> <p>2 where you were receiving test prep</p> <p>3 services as well as being an employee?</p> <p>4 A. At the time of my</p> <p>5 employment, no.</p> <p>6 Q. When you were employed at</p> <p>7 Optima, you were still in the process of</p> <p>8 taking the USMLE exams. Is that right?</p> <p>9 A. I completed 1, 2 and CS. I</p> <p>10 had Step 3 pending.</p> <p>11 Q. And Optima</p> <p>12 University -- well, what is Optima?</p> <p>13 A. Optima University was a</p> <p>14 USMLE test prep course. It basically</p> <p>15 covered, basically, Step 1 and Step 2.</p> <p>16 Q. And when you say Step 2, do</p> <p>17 you just mean Step 2 CK?</p> <p>18 A. CK.</p> <p>19 Q. Now, did Optima exist solely</p> <p>20 as a test prep company for the USMLE?</p> <p>21 A. That was my understanding.</p> <p>22 Q. Did they teach any other</p> <p>23 tests or subjects?</p> <p>24 A. I don't believe so.</p>

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<p>1 Q. Did the question bank have</p> <p>2 questions from any other exams?</p> <p>3 A. Not that I know of.</p> <p>4 Q. And did the question bank</p> <p>5 have -- were there separate question</p> <p>6 banks for Step 1 and Step 2 CK?</p> <p>7 A. Yes, there were.</p> <p>8 Q. And when a person came to</p> <p>9 Optima, did they bring with them their</p> <p>10 own computer?</p> <p>11 A. No.</p> <p>12 Q. So they used an Optima</p> <p>13 computer?</p> <p>14 A. Yes, they did.</p> <p>15 Q. Did Optima provide people</p> <p>16 with any other study materials other than</p> <p>17 the computer?</p> <p>18 A. Not that I -- I don't</p> <p>19 believe so.</p> <p>20 Q. You mentioned that there</p> <p>21 were people who taught classes. What</p> <p>22 were the classes that were taught?</p> <p>23 A. Honestly, I didn't get</p> <p>24 involved in that. If the students</p>	<p>1 A. I can't recall how many.</p> <p>2 Q. Dr. Suliman, was he a</p> <p>3 practicing doctor?</p> <p>4 A. He was an M.D. is what he</p> <p>5 told us. I don't know if he practiced</p> <p>6 prior, but while he was at the center,</p> <p>7 no.</p> <p>8 Q. And do you know where he</p> <p>9 went to medical school?</p> <p>10 A. Somewhere abroad.</p> <p>11 Q. I think what I'm going to</p> <p>12 have you do is if you would, turn in your</p> <p>13 exhibit book to Exhibit 1. Do you see</p> <p>14 Exhibit 1?</p> <p>15 A. Yes.</p> <p>16 Q. Do you recognize it?</p> <p>17 A. Yes, I do.</p> <p>18 Q. And that's the -- this is</p> <p>19 the complaint that you initially filed?</p> <p>20 A. Yes. The initial one.</p> <p>21 Q. And then turning to Exhibit</p> <p>22 2?</p> <p>23 A. The amended complaint.</p> <p>24 Q. So I just wondered if you</p>
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<p>1 requested specific lectures on specific</p> <p>2 topics, the instructors were told to make</p> <p>3 a lecture based on those topics. They</p> <p>4 varied in subject matter.</p> <p>5 Some days it may be -- there</p> <p>6 was no real structure -- Kaplan has a</p> <p>7 structured course. There's a set lecture</p> <p>8 set for every day of the week, set hours.</p> <p>9 This was very basically ad hoc, as needed</p> <p>10 or if the students had requested</p> <p>11 something specific.</p> <p>12 Q. So the instructors that were</p> <p>13 on staff were basically there to respond</p> <p>14 to questions that arose from the</p> <p>15 students?</p> <p>16 A. Yes. The instructors</p> <p>17 actually were added on in 2008. Before</p> <p>18 that when I was a student, Dr. Suliman</p> <p>19 only did the lectures. He was the only</p> <p>20 one teaching.</p> <p>21 Q. And did you attend any of</p> <p>22 those lectures?</p> <p>23 A. Yes, I did.</p> <p>24 Q. About how many?</p>	<p>1 could walk us through your complaint and</p> <p>2 amended complaint and tell us what it is</p> <p>3 that you are asking for; what the</p> <p>4 specific complaints are from a legal</p> <p>5 standpoint that you're making against the</p> <p>6 NBME and against the ECFMG?</p> <p>7 A. My specific complaint is</p> <p>8 outlined in the amended complaint more</p> <p>9 so, and I believe that the major issues</p> <p>10 I'm having is that I believe I was</p> <p>11 discriminated against based solely on the</p> <p>12 fact that I was an employee at Optima;</p> <p>13 that the evidence that was presented</p> <p>14 before me was not complete.</p> <p>15 There's more assumptions and</p> <p>16 that word was basically -- even in the</p> <p>17 hearing, was said to have been</p> <p>18 observations, no real analysis,</p> <p>19 statistical analysis.</p> <p>20 I feel that it's more so</p> <p>21 that my role post exam is why that I am</p> <p>22 being told that my score is invalid with</p> <p>23 actually no real proof or evidence</p> <p>24 presented towards me of what they did and</p>

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<p>1 didn't have at my time of the exam.</p> <p>2 Q. So discrimination, is that</p> <p>3 the sole cause of action that you're</p> <p>4 alleging?</p> <p>5 A. I believe I'm being falsely</p> <p>6 accused, and I believe that</p> <p>7 discrimination is a major portion of the</p> <p>8 reasoning behind NBME's decisions against</p> <p>9 me.</p> <p>10 Q. I just want to be sure that</p> <p>11 we have everything, so discrimination and</p> <p>12 false accusations?</p> <p>13 A. I believe there's a level of</p> <p>14 defamation with that as well.</p> <p>15 Q. And tell me a little bit</p> <p>16 more about the defamation claim.</p> <p>17 A. I believe that by going</p> <p>18 forward and continuing to show that I was</p> <p>19 involved in Optima and in the hearing as</p> <p>20 well, Susan Detich went out of her way to</p> <p>21 bring up my employment.</p> <p>22 I think that they tried to</p> <p>23 post a picture of me as being part of the</p> <p>24 Optima University and, therefore,</p>	<p>1 exam.</p> <p>2 Q. And you did -- you said you</p> <p>3 did all of the test banks out there.</p> <p>4 Optima was not the only test prep company</p> <p>5 that had a test bank. Is that right?</p> <p>6 A. That is correct.</p> <p>7 Q. But Optima is one of the</p> <p>8 test banks that you accessed?</p> <p>9 A. At the time I was a student</p> <p>10 I did have access to the Optima bank.</p> <p>11 Q. So I just want to make sure</p> <p>12 that we're clear. So the defamation is</p> <p>13 based on the statements that were made</p> <p>14 about you in front of the committee on</p> <p>15 score validity?</p> <p>16 A. I believe that's -- yes.</p> <p>17 Q. And is your claim for</p> <p>18 defamation based on statements to anybody</p> <p>19 else other than just with what happened</p> <p>20 in that committee on score validity?</p> <p>21 A. Honestly, I cannot tell you</p> <p>22 what NBME -- who they spoke to before</p> <p>23 that committee, so I honestly can't say</p> <p>24 if they spoke to anybody else, but I can</p>
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<p>1 assumptions that I had access to</p> <p>2 materials, whether I was a student or not</p> <p>3 a student, that may have been copyright</p> <p>4 infringement or stolen.</p> <p>5 And I think by making me</p> <p>6 look that way already, you put a</p> <p>7 stereotype in a person's mind, including</p> <p>8 the committee that day, because if it was</p> <p>9 strictly regarding the score validity on</p> <p>10 my exam, my employment never had to come</p> <p>11 up.</p> <p>12 Q. Do you agree that you were</p> <p>13 exposed to some of the test questions</p> <p>14 that you saw on that December exam that</p> <p>15 you passed?</p> <p>16 A. As I said in the past, I've</p> <p>17 done all the question banks out there,</p> <p>18 and maybe 20 questions seemed similar. I</p> <p>19 can't say if it was from Optima or USMLE</p> <p>20 World and the Kaplan Qbank or the NBME</p> <p>21 assessment tests, but outside of those</p> <p>22 20, no. I don't think that I saw</p> <p>23 anything that was especially statistical</p> <p>24 numbers that they gave referring to my</p>	<p>1 go by what -- just like I said, at that</p> <p>2 committee hearing, to have Ms. Detich</p> <p>3 bring up my employment, going out of her</p> <p>4 way to bring up my employment, it shows</p> <p>5 she was trying to show and maneuver a</p> <p>6 certain direction.</p> <p>7 Q. So we have discrimination</p> <p>8 and we have defamation. Are there any</p> <p>9 other causes of action?</p> <p>10 A. I mean, I think with the</p> <p>11 discrimination goes what I have written</p> <p>12 here, basically that I'm falsely accused.</p> <p>13 They tend to show a picture as if -- they</p> <p>14 don't directly say. They try to show me</p> <p>15 as a picture of an accomplice to Dr.</p> <p>16 Suliman.</p> <p>17 And, basically, I do have</p> <p>18 the right to be involved with anyone. By</p> <p>19 association, you're not guilty by about</p> <p>20 what another person does, and I think all</p> <p>21 that put together is basically where we</p> <p>22 are today.</p> <p>23 And I believe also there is</p> <p>24 that one issue that I believe that if</p>

14 (Pages 50 to 53)



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<p>1 NBME as well as -- or ECFMG at the point</p> <p>2 had known about this course being suspect</p> <p>3 or may have had certain questions from</p> <p>4 the time they first found out, I believe</p> <p>5 there was negligence on their part that</p> <p>6 they did not let all students know that</p> <p>7 either you shouldn't be going there or</p> <p>8 that it was a questionable course.</p> <p>9 They let students go there,</p> <p>10 continue there for a long time and then</p> <p>11 they came afterwards. So I think there's</p> <p>12 a large level of negligence on NBME's</p> <p>13 part.</p> <p>14 Q. So you think that the NBME</p> <p>15 should have warned people that they may</p> <p>16 be cheating on the exam?</p> <p>17 A. Yes.</p> <p>18 Q. When you used the question</p> <p>19 bank at Optima, can you tell us what that</p> <p>20 looked like? How you accessed it?</p> <p>21 A. You have a log-in. You're</p> <p>22 basically given a log-in by him. You log</p> <p>23 in and, basically, it lists down -- this</p> <p>24 is basically an archaic-looking system.</p>	<p>1 Q. At the question bank?</p> <p>2 A. I did not spend as much time</p> <p>3 at the question bank because I'm pretty</p> <p>4 quick with questions so I just look at</p> <p>5 them and I go. His question bank for</p> <p>6 Step 2 at the time, I'd say anywhere</p> <p>7 between 700 to a thousand questions, very</p> <p>8 minimal. I spent a lot more time having</p> <p>9 group conversations with people,</p> <p>10 understanding material and then going to</p> <p>11 lectures so that was basically that.</p> <p>12 Q. How many other students were</p> <p>13 there at Optima when you were there?</p> <p>14 A. When I first started over</p> <p>15 there, if I had to guess or take an</p> <p>16 estimate, I would say there was less than</p> <p>17 20 students, and of those, maybe six were</p> <p>18 Step 2. The rest were all Step 1.</p> <p>19 Q. And did you review -- would</p> <p>20 you say you reviewed all the 700 to a</p> <p>21 thousand questions that were in the Step</p> <p>22 2 CK bank?</p> <p>23 A. I did go through all the</p> <p>24 questions at least once. Some sections</p>
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<p>1 I think it was like a lightish blue</p> <p>2 background, big, almost like -- what's</p> <p>3 the word I'm looking for? Comic</p> <p>4 lettering. It wasn't like Times Roman or</p> <p>5 anything.</p> <p>6 Q. Like Comic Sans?</p> <p>7 A. Yeah. Kind of like, you</p> <p>8 know, and, basically, it was a question</p> <p>9 and you had the answer of choices. You</p> <p>10 pick your choice, and the next page would</p> <p>11 basically be the right answer and a</p> <p>12 description of why that's the right</p> <p>13 answer or why it would be wrong. Almost</p> <p>14 like your USMLE World, similar thing, and</p> <p>15 it was separated by subject matter.</p> <p>16 Q. When you use the word "he,"</p> <p>17 you said when he would --</p> <p>18 A. Referring to Dr. Suliman.</p> <p>19 Q. And how many hours a day</p> <p>20 would you say you spent at the question</p> <p>21 bank?</p> <p>22 A. At the question bank or at</p> <p>23 the centers? Two different things for</p> <p>24 me.</p>	<p>1 more.</p> <p>2 Q. Did you review the questions</p> <p>3 in the Step 1 bank, also?</p> <p>4 A. No. If you're in Step 2,</p> <p>5 you don't get access to Step 1. If</p> <p>6 you're in Step 1, you don't get access to</p> <p>7 Step 2.</p> <p>8 Q. So just going back to the</p> <p>9 causes of action. I just want to be</p> <p>10 sure. We have discrimination, the breach</p> <p>11 of the duty to warn, right, and then</p> <p>12 defamation.</p> <p>13 Are there any other causes</p> <p>14 of action that you're alleging</p> <p>15 against either the NBME --</p> <p>16 A. If you're looking for</p> <p>17 something specific, I'd have to go</p> <p>18 through each one again.</p> <p>19 Q. And I should add, and the</p> <p>20 freedom to associate, right?</p> <p>21 A. Yeah.</p> <p>22 Q. So we're at four. We're at</p> <p>23 four, and I'll just restate them, so</p> <p>24 discrimination, duty to warn, freedom of</p>

15 (Pages 54 to 57)

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<p>1 association and defamation?</p> <p>2 A. Falsely accused.</p> <p>3 Q. I thought that went with</p> <p>4 defamation?</p> <p>5 A. That's what I'm saying. I</p> <p>6 don't know -- when you say it like that,</p> <p>7 I don't know exactly how -- what you're</p> <p>8 putting together.</p> <p>9 Q. I want you to tell me</p> <p>10 because I want to make sure that I have</p> <p>11 everything.</p> <p>12 A. Well, I believe, like I</p> <p>13 said, that there is -- all the matters</p> <p>14 were in my complaint, and it does go down</p> <p>15 to the fact that I was falsely excused.</p> <p>16 I don't believe I did anything wrong. I</p> <p>17 took the test legitimately.</p> <p>18 Accomplice because they go</p> <p>19 out of their way to show that I worked</p> <p>20 with him.</p> <p>21 Discrimination based on the</p> <p>22 fact that I did work with him, and I do</p> <p>23 have the freedom of association.</p> <p>24 I don't believe -- I don't</p>	<p>1 causes of action?</p> <p>2 A. Yes. Those are my main</p> <p>3 points given the fact that Judge Rufe</p> <p>4 wanted me to amend it.</p> <p>5 Q. Anything else from the</p> <p>6 original complaint?</p> <p>7 A. I'd have to look over that</p> <p>8 again as well. I didn't separate it as</p> <p>9 well as I did with the second one. So as</p> <p>10 I said, I wouldn't think those are the</p> <p>11 only ones. There might be more.</p> <p>12 Q. I want to make sure because</p> <p>13 now is the time to do that. Take as much</p> <p>14 time as you need to look through Exhibit</p> <p>15 1 and let us know.</p> <p>16 A. Are you asking just for</p> <p>17 legal complaints?</p> <p>18 Q. Yes, for the causes of</p> <p>19 action.</p> <p>20 A. I believe those are the main</p> <p>21 ones.</p> <p>22 Q. I know those are the main</p> <p>23 ones, but I want to make sure that we</p> <p>24 have them all. Are there any others that</p>
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<p>1 think this is a legal thing, but I don't</p> <p>2 think the analysis was done even though I</p> <p>3 was told that an analysis was done. I</p> <p>4 think they changed the wording. Ms.</p> <p>5 Carson changed the wording multiple</p> <p>6 times.</p> <p>7 There was negligence on part</p> <p>8 of the NBME not warning students, so</p> <p>9 there was a duty there.</p> <p>10 Copyright infringement, even</p> <p>11 at the last hearing you guys said I'm not</p> <p>12 being thought of as having violated that,</p> <p>13 but I think through association I think</p> <p>14 there is an indirect thing; that if I am</p> <p>15 associated with him and he's guilty of</p> <p>16 that, that I'm being said that I'm part</p> <p>17 of that as well. And then defamation as</p> <p>18 well.</p> <p>19 Q. So I noticed that you were</p> <p>20 sort of going through Exhibit 2, the</p> <p>21 amended complaint, and reading the</p> <p>22 italicized words. Do I take that -- am I</p> <p>23 correct in taking that to mean that those</p> <p>24 are your headings for the different</p>	<p>1 you want to add?</p> <p>2 A. I mean, I don't know if</p> <p>3 there's a legal term to be putting for</p> <p>4 the fact that I believe that the appeal</p> <p>5 was not taken seriously. The waivers</p> <p>6 that were requested were not -- I think</p> <p>7 they go back to the background. There's</p> <p>8 a stereotype against me.</p> <p>9 And the fact that I've asked</p> <p>10 for certain waivers that I believe were</p> <p>11 justified, such as me taking the exam</p> <p>12 2007 and them not doing any validation</p> <p>13 until almost the end of 2011 and them not</p> <p>14 extending my seven-year period being an</p> <p>15 issue which I believe was a legitimate</p> <p>16 request.</p> <p>17 So I don't know how legally</p> <p>18 that just -- I think it all falls back to</p> <p>19 the discrimination and all the other</p> <p>20 things that I mentioned.</p> <p>21 Q. Anything else that you want</p> <p>22 to mention before we move on from this</p> <p>23 topic?</p> <p>24 A. No.</p>

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<p>1 Q. I do want to talk to you 2 about damages. So in Exhibit 2, the 3 second to last page, paragraph 28, you 4 write: Plaintiff has suffered harm 5 through emotional distress, reputational 6 damages and pecuniary damages due to the 7 actions set forth by the defendants. 8 I want to take those in 9 turn. What do you mean when you say 10 emotional distress? 11 A. The emotional distress, the 12 drinking and all that other stuff was all 13 due to my -- the situation I was in. 14 Q. Did you seek any assistance 15 from a psychiatrist or psychologist? 16 A. I didn't have insurance at 17 the time so, basically, anyone I did talk 18 to was basically friends to kind of -- 19 who just encouraging me to keep at it and 20 let it go through. 21 The emotional distress 22 because I was at Optima University and 23 there was no warning. When the FBI came, 24 I was deposed by them almost</p>	<p>1 went knowing that Step 3 was probably my 2 only last chance to try to get in if I 3 had passed it the first time around. 4 Q. So you participated in the 5 scramble, but how did you get to the 6 scramble? 7 A. The scramble is always post 8 match. You just have to apply. Since I 9 had finished Step 2 at the end of 2007, 10 then I went into the scramble in 2008. 11 Q. And all that was happening 12 before the Optima raid, right? 13 A. That was all before, yeah. 14 Q. So I want to talk a little 15 bit about that. You were ECFMG 16 certified? 17 A. As of 2007, yes. 18 Q. Right. And that gave you 19 the ability to participate in the 20 residency match? 21 A. That's correct. 22 Q. And when you attempted to 23 match, how many -- how many choices did 24 you make?</p>
Page 63	Page 65
<p>1 two-and-a-half, three hours, having to 2 deal with all the students and all the 3 fallout afterwards, after all this 4 happened. 5 And the fact that even now, 6 after all that's going on, I'm still not 7 able to keep my score valid even though I 8 passed everything 2007, so now we're six 9 years later and I'm not a doctor 10 practicing. 11 Q. What type of medicine were 12 you planning to practice? 13 A. I would have taken anything. 14 Family practice would probably be my 15 fallback even though my interests were 16 ortho and rehab or psych. 17 Q. As a medical student did you 18 attempt to match in the residency 19 program? 20 A. After I passed 2007 I tried 21 to scramble. It was a very bad scramble. 22 First time trying I became very, 23 very -- what's the word I'm looking 24 for -- discouraged about how the match</p>	<p>1 A. You mean when I scrambled? 2 Q. No. You have to attempt to 3 match before you can scramble. 4 A. No. You have to buy a 5 token, but you don't actually have to be 6 in the match to match in order for you to 7 be in the scramble. 8 Q. You did not participate in 9 the match? 10 A. I did not because most 11 interviews start September, and since I 12 had not passed Step 2 and I had just 13 recently failed in July, I didn't 14 participate. 15 I believe one time I did the 16 match; and I don't remember exactly, I 17 think prior, I spent a couple thousand 18 dollars and got nowhere. 19 Q. So about how many times did 20 you participate in the actual match? 21 A. Honestly, I don't remember 22 the exact thing with the match, but I 23 believe I had tried once, but I may be 24 mixing the match and scramble together,</p>

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<p>1 but I did spend a certain amount of</p> <p>2 money. I don't remember if it was you</p> <p>3 have to pay to be in the scramble or not.</p> <p>4 Q. Did you scramble more than</p> <p>5 once?</p> <p>6 A. No. Just the one time</p> <p>7 because 2008 came around. By the time</p> <p>8 scramble came around the next time, we</p> <p>9 were in the middle of the whole Optima</p> <p>10 situation.</p> <p>11 Q. So, again, you scrambled,</p> <p>12 and did you have any interviews as a</p> <p>13 result of that?</p> <p>14 A. No.</p> <p>15 Q. So how did you lose out on a</p> <p>16 bunch of money from scrambling?</p> <p>17 A. No. I'm saying I had spent</p> <p>18 money -- I believe the one time I tried</p> <p>19 to match. It's very expensive to apply,</p> <p>20 and you just get a rejection letter</p> <p>21 afterwards. It's like throwing money</p> <p>22 away.</p> <p>23 Q. So you scrambled once and</p> <p>24 matched -- tried to match once?</p>	<p>1 out right away, you get filtered out</p> <p>2 right away.</p> <p>3 Q. Other than your multiple</p> <p>4 attempts at the exam, do you think there</p> <p>5 were any other reasons why you didn't</p> <p>6 match?</p> <p>7 A. My Step 1 score was not as</p> <p>8 strong, was not that strong so that would</p> <p>9 be another reason.</p> <p>10 Q. What do you mean when you</p> <p>11 say multiple attempts?</p> <p>12 A. The amount of times I took</p> <p>13 the step exam.</p> <p>14 Q. And all told, how many times</p> <p>15 did you take Step 1?</p> <p>16 A. I passed Step 1 on the</p> <p>17 seventh try. Even though I registered</p> <p>18 seven times, I may not have sat for all</p> <p>19 of them. Sometimes I sat just because I</p> <p>20 paid. I figured why not just take it as</p> <p>21 just a studying tool.</p> <p>22 Q. And with Step 2 CK, how many</p> <p>23 times did you attempt?</p> <p>24 A. I passed it on the sixth</p>
Page 67	Page 69
<p>1 A. Yeah.</p> <p>2 Q. When you tried to match did</p> <p>3 you have any interviews?</p> <p>4 A. No.</p> <p>5 Q. And what do you think the</p> <p>6 reason was for you not having any</p> <p>7 interviews when you tried to match?</p> <p>8 A. Multiple attempts.</p> <p>9 Q. At the exam?</p> <p>10 A. At the exam.</p> <p>11 Q. What do you think the reason</p> <p>12 was when you attempted to scramble that</p> <p>13 you didn't have any interviews?</p> <p>14 A. Well, the problem with</p> <p>15 scramble is you can't get through to a</p> <p>16 lot of people.</p> <p>17 Q. What do you mean?</p> <p>18 A. Everyone is calling. You</p> <p>19 have thousands and thousands of students</p> <p>20 trying to call all these programs that</p> <p>21 have open vacancies so getting through is</p> <p>22 hard enough. And then when you get</p> <p>23 through to somebody, depending on what</p> <p>24 they're looking for, if you get filtered</p>	<p>1 time.</p> <p>2 Q. What's the reason that it</p> <p>3 took you seven attempts to pass Step 1?</p> <p>4 A. I've never been a</p> <p>5 standardized test taker.</p> <p>6 Q. Is that the same reason why</p> <p>7 it took you six attempts to pass Step 2?</p> <p>8 A. That, also. Plus, the fact</p> <p>9 that I never was studying the right way.</p> <p>10 I was always doing multiple things at the</p> <p>11 same time, so I was never really fully</p> <p>12 focused just on the work.</p> <p>13 Q. Any other reasons why you</p> <p>14 think you had a difficult time or were</p> <p>15 unsuccessful in matching with a residency</p> <p>16 program?</p> <p>17 A. No. I think it's just the</p> <p>18 way the match is set up. If you're not</p> <p>19 first attempt, high score, I think the</p> <p>20 amount of applicants that apply for the</p> <p>21 limited number of residency positions, it</p> <p>22 winds up being a hard thing.</p> <p>23 Q. What makes you think that</p> <p>24 the residency programs care about</p>

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<p>1 multiple attempts?</p> <p>2 A. They've made it very clear.</p> <p>3 Q. How?</p> <p>4 A. Sometimes when you interview</p> <p>5 with them, when you talk to people in</p> <p>6 programs, the first thing they say is you</p> <p>7 should make sure you pass first time,</p> <p>8 high score. You go to Kaplan, you go to</p> <p>9 all these review courses, the professors</p> <p>10 who teach tell you right away, don't take</p> <p>11 the exam until you're ready.</p> <p>12 Things have changed since I</p> <p>13 first started med school to what it is</p> <p>14 now. Back then all you have to do is</p> <p>15 pass. The residency position is still</p> <p>16 kind of available. Now it's not the same</p> <p>17 way.</p> <p>18 Q. I want to take you through</p> <p>19 your educational history a bit.</p> <p>20 A. Sure.</p> <p>21 Q. Where did you go to high</p> <p>22 school?</p> <p>23 MS. HOLLAND: This might be</p> <p>24 a good place to take a little</p>	<p>1 Q. What happened in your senior</p> <p>2 year?</p> <p>3 A. They put me in Calculus BC</p> <p>4 when I didn't want to be.</p> <p>5 Q. What's that mean?</p> <p>6 A. They put me in a high graded</p> <p>7 AP course that I tried to get out of and</p> <p>8 they refused, and that's the only class I</p> <p>9 think that I did not do so well in.</p> <p>10 Q. When you say you had an</p> <p>11 above a hundred average, how is that</p> <p>12 possible?</p> <p>13 A. AP classes get weighted</p> <p>14 higher because they are college level</p> <p>15 courses to a point, so my GPA was always</p> <p>16 very high. So my cum going into my last</p> <p>17 quarter I was ranked one. I lost my rank</p> <p>18 the very last semester of high school.</p> <p>19 Q. Your ranked one out of how</p> <p>20 many students?</p> <p>21 A. Three-hundred and something.</p> <p>22 Q. Did you receive any honors</p> <p>23 in high school?</p> <p>24 A. High honors all the way</p>
Page 71	Page 73
<p>1 break.</p> <p>2 MS. McENROE: Let's go off</p> <p>3 the record.</p> <p>4 (A discussion was held off</p> <p>5 the record.)</p> <p>6 (A short break was taken.)</p> <p>7 BY MS. HOLLAND:</p> <p>8 Q. So, Dr. Thomas, again, you</p> <p>9 are still under oath. You understand</p> <p>10 that, correct?</p> <p>11 A. Yes, I do.</p> <p>12 Q. So where did you go to high</p> <p>13 school?</p> <p>14 A. Monsignor Farrell High</p> <p>15 School, Staten Island.</p> <p>16 Q. How do you spell Farrell?</p> <p>17 A. F-A-R-R-E-L-L.</p> <p>18 Q. Is it a Catholic school?</p> <p>19 A. Yes, it is.</p> <p>20 Q. What were your grades like?</p> <p>21 A. I was always above a hundred</p> <p>22 average. Cumulative average usually</p> <p>23 ranged around 102 to 104 except towards</p> <p>24 my senior year.</p>	<p>1 through. Honor -- what's called Honor</p> <p>2 Society last two years.</p> <p>3 Q. Any awards that you have?</p> <p>4 A. Honor Society stuff as well</p> <p>5 as I was involved in a lot of</p> <p>6 extracurricular activities, so I got an</p> <p>7 award for that at graduation.</p> <p>8 Q. What kind of</p> <p>9 extracurricular?</p> <p>10 A. You name it, I was in it.</p> <p>11 Q. Did you work during high</p> <p>12 school?</p> <p>13 A. No.</p> <p>14 Q. Do you remember what you got</p> <p>15 on the SAT?</p> <p>16 A. I took the SAT three times.</p> <p>17 Ultimately, the last time I believe I</p> <p>18 wound up with a 1270.</p> <p>19 Q. And that was out of 1600?</p> <p>20 A. Out of 1600.</p> <p>21 Q. What year did you take the</p> <p>22 SAT?</p> <p>23 A. I graduated in '95, so it</p> <p>24 had to be junior year so '94, '95, I</p>

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<p>1 assume.</p> <p>2 Q. And tell me about applying</p> <p>3 for college. Where did you apply?</p> <p>4 A. I applied to CUNY, SUNY,</p> <p>5 Johns Hopkins, a couple schools. I don't</p> <p>6 remember all of them. I didn't really</p> <p>7 know too much. Since my parents are</p> <p>8 first generation here, they really had no</p> <p>9 idea how the college system works so,</p> <p>10 basically, we just kind of went with what</p> <p>11 we knew.</p> <p>12 Q. And where did you end up</p> <p>13 going to college?</p> <p>14 A. I wound up getting a</p> <p>15 scholarship to Johns Hopkins, refused it</p> <p>16 and then wound up going to Europe for two</p> <p>17 years.</p> <p>18 Q. What was the scholarship at</p> <p>19 Johns Hopkins?</p> <p>20 A. It was for an electrical</p> <p>21 engineering program, a five-year master's</p> <p>22 program.</p> <p>23 Q. And when you went to Europe,</p> <p>24 what made you decide to do that?</p>	<p>1 Q. Why did you come back?</p> <p>2 A. I came back -- the school</p> <p>3 was doing some corrupt stuff where</p> <p>4 students were buying their grades. I</p> <p>5 wasn't a big fan of --</p> <p>6 Q. The University of Debrecen?</p> <p>7 A. Yes.</p> <p>8 Q. I'm sorry to interrupt you.</p> <p>9 What do you mean students were buying</p> <p>10 their grades?</p> <p>11 A. Back then, because it's</p> <p>12 Europe and their system is different,</p> <p>13 they do a lot more oral exams. It's oral</p> <p>14 and written but more so oral and,</p> <p>15 basically, we found out -- or we were</p> <p>16 approached about paying our way through.</p> <p>17 Q. Who's "we"?</p> <p>18 A. Me and other students.</p> <p>19 Q. Are you in touch with any of</p> <p>20 those other students?</p> <p>21 A. I know them -- I know some</p> <p>22 of them that are still here, but I didn't</p> <p>23 really keep in touch as much, just people</p> <p>24 I knew before.</p>
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<p>1 A. I had some friends that were</p> <p>2 going there. Figured it was a different</p> <p>3 experience. It was supposed to be for</p> <p>4 premed.</p> <p>5 Q. What school did you study</p> <p>6 at?</p> <p>7 A. It was called University of</p> <p>8 Debrecen. D-E-B-R-E-C-E-N.</p> <p>9 Q. In what country?</p> <p>10 A. In Hungary.</p> <p>11 Q. And what did you study</p> <p>12 there?</p> <p>13 A. It was premed.</p> <p>14 Q. Did you earn a degree from</p> <p>15 the University of Debrecen?</p> <p>16 A. No. I came back two years</p> <p>17 later.</p> <p>18 Q. And where did you go?</p> <p>19 A. I went to State University</p> <p>20 of New York at Stony Brook.</p> <p>21 Q. And why did you decide on</p> <p>22 Stony Brook?</p> <p>23 A. Why I decided on Stony Brook</p> <p>24 or why I came back?</p>	<p>1 Q. Did they also leave the</p> <p>2 University of Debrecen?</p> <p>3 A. At that time, me and my</p> <p>4 friend left and then maybe a year or so</p> <p>5 later there was a major exodus from</p> <p>6 Hungary to Poland. A lot of students</p> <p>7 that were in Hungary left over to Poland.</p> <p>8 A lot of students stayed so it all</p> <p>9 depended, I guess, what semester you were</p> <p>10 in at the time.</p> <p>11 Q. What was the name of your</p> <p>12 friend who you left the university with?</p> <p>13 A. That left there when I left?</p> <p>14 Q. Yeah.</p> <p>15 A. My friend Vinil.</p> <p>16 Q. V-I?</p> <p>17 A. V-I-N-I-L.</p> <p>18 Q. What's Vinil's last name?</p> <p>19 A. V-A-R-G-H-E-S-E. He left</p> <p>20 because he just wasn't feeling medicine</p> <p>21 anymore. He was my roommate at the time,</p> <p>22 so he came back and did finance.</p> <p>23 Q. So you came back to the U.S.</p> <p>24 did you withdraw from the University of</p>

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<p>1 Debrecen or did you transfer?</p> <p>2 A. I transferred over because</p> <p>3 SUNY at Stony Brook gave me credits for a</p> <p>4 lot of classes, so they kept me at a</p> <p>5 status of junior. So since I didn't lose</p> <p>6 any time, I switched right over to Stony</p> <p>7 Brook.</p> <p>8 Q. Is that why you selected</p> <p>9 Stony Brook?</p> <p>10 A. Yes.</p> <p>11 Q. When you studied at Stony</p> <p>12 Brook were you living at home?</p> <p>13 A. No.</p> <p>14 Q. You lived on your own?</p> <p>15 A. I lived on my own.</p> <p>16 Q. So at Stony Brook what year</p> <p>17 did you graduate?</p> <p>18 A. '99.</p> <p>19 Q. And what was your grade</p> <p>20 point average?</p> <p>21 A. I think it was somewhere</p> <p>22 around 3.0, I believe, give or take.</p> <p>23 Q. Did that take into account</p> <p>24 your grades from Debrecen?</p>	<p>1 was working at -- I believe that was</p> <p>2 called Waldron Center for the Aging which</p> <p>3 is a nursing home as a dietary aide, and</p> <p>4 I was taking 22 credits at the time.</p> <p>5 Q. Is there a reason why you</p> <p>6 needed to work four different jobs?</p> <p>7 A. Paying for college.</p> <p>8 Q. So you didn't have student</p> <p>9 loans?</p> <p>10 A. I did have some student</p> <p>11 loans, but I wasn't taking anything from</p> <p>12 my parents at the time so...</p> <p>13 Q. What did you major in at</p> <p>14 Stony Brook?</p> <p>15 A. I started off with</p> <p>16 electrical engineering. Yeah.</p> <p>17 Electrical engineering and then wound up</p> <p>18 with psychology.</p> <p>19 Q. That's quite a dramatic</p> <p>20 shift. How did you settle on psychology?</p> <p>21 A. Just I wanted to graduate on</p> <p>22 time, so I basically switched my major my</p> <p>23 senior year, took all the classes I</p> <p>24 needed and finished the degree off in a</p>
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<p>1 A. I don't remember how the cum</p> <p>2 works.</p> <p>3 Q. Any awards or honors from</p> <p>4 Stony Brook?</p> <p>5 A. I got on the Dean's List</p> <p>6 once, I believe.</p> <p>7 Q. Is there a reason why your</p> <p>8 grades were lower at Stony Brook than</p> <p>9 they were in high school?</p> <p>10 A. I was working about four</p> <p>11 jobs at the time.</p> <p>12 Q. Tell us where you were</p> <p>13 working?</p> <p>14 A. I was working as security</p> <p>15 for their parties.</p> <p>16 Q. Whose parties?</p> <p>17 A. For any Stony Brook parties</p> <p>18 that were on campus. I worked as an</p> <p>19 overnight stocker at Edwards which is a</p> <p>20 grocery store. I worked at Options for</p> <p>21 Community Living which was a community</p> <p>22 residence, and I was working at the book</p> <p>23 store at the campus.</p> <p>24 And then towards the end I</p>	<p>1 year.</p> <p>2 Q. Since you started off as an</p> <p>3 electrical engineering major, did you</p> <p>4 explore the possibility of going back to</p> <p>5 Johns Hopkins?</p> <p>6 A. I did. I did think about</p> <p>7 going back for biomed engineering, but</p> <p>8 then I got word there was schools in the</p> <p>9 Caribbean, so I decided to go back to</p> <p>10 medicine.</p> <p>11 Q. Did you minor in anything at</p> <p>12 Stony Brook?</p> <p>13 A. No.</p> <p>14 Q. And when you took the MCAT</p> <p>15 in college, what score did you get?</p> <p>16 A. I don't remember exactly</p> <p>17 what the score was. I took it once.</p> <p>18 That also because at that time my</p> <p>19 girlfriend wanted to take it, and she</p> <p>20 kind of forced me into it because I</p> <p>21 didn't really want to take it.</p> <p>22 Q. You didn't really have an</p> <p>23 interest in practicing medicine?</p> <p>24 A. No, because MCATs were not</p>

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<p>1 required in the Caribbean at the time.</p> <p>2 Now they're more so required, so she</p> <p>3 asked me to take it to try to get into</p> <p>4 med school in the U.S., but I knew</p> <p>5 already it wasn't going to be fruitful.</p> <p>6 Q. Did she end up going to med</p> <p>7 school in the U.S.?</p> <p>8 A. No. She wound up going to</p> <p>9 psych and went on with her life.</p> <p>10 Q. Is that girlfriend the</p> <p>11 person who's now your wife?</p> <p>12 A. No.</p> <p>13 Q. So tell me what made you</p> <p>14 decide to go to medical school?</p> <p>15 A. I think -- I've always had</p> <p>16 an interest in medicine. I did like my</p> <p>17 time when I was in Hungary. When the</p> <p>18 Caribbean came up and some of the</p> <p>19 students that were in Hungary were in the</p> <p>20 Caribbean at Ross, they basically told me</p> <p>21 the islands are nothing like they were</p> <p>22 over there, so you may want to try it</p> <p>23 again, so I said all right. What do I</p> <p>24 got to lose?</p>	<p>1 Q. When you first applied to</p> <p>2 medical school?</p> <p>3 A. I never applied to a medical</p> <p>4 school in the U.S.</p> <p>5 Q. No. I mean, when you first</p> <p>6 applied to medical school, period?</p> <p>7 A. Ross University is all I</p> <p>8 looked for.</p> <p>9 Q. Is that R-O-S-S?</p> <p>10 A. R-O-S-S in Dominica.</p> <p>11 Q. In West Indies?</p> <p>12 A. I don't know if you consider</p> <p>13 that West Indies or not. Caribbean.</p> <p>14 Q. So when did you start</p> <p>15 medical school at Ross University?</p> <p>16 A. September '99.</p> <p>17 Q. So you didn't take any time</p> <p>18 from after you graduated Stony Brook;</p> <p>19 next semester you were starting medical</p> <p>20 school?</p> <p>21 A. Just the summer. That's it.</p> <p>22 Q. And for how long did you</p> <p>23 attend Ross University?</p> <p>24 A. Ross University, I was there</p>
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<p>1 Q. So when you say the</p> <p>2 Caribbean came up, who was it -- whose</p> <p>3 idea was it for you to go to medical</p> <p>4 school in the Caribbean?</p> <p>5 A. No. That was -- friends of</p> <p>6 mine had told me they had transferred</p> <p>7 over, people that I knew from Hungary</p> <p>8 before, but, ultimately, it was my</p> <p>9 decision to go down and do med school.</p> <p>10 Q. And was there any reason why</p> <p>11 you didn't try to go to a medical school</p> <p>12 in the United States?</p> <p>13 A. I didn't have the GPA in my</p> <p>14 background. I didn't do premed and the</p> <p>15 MCAT scores was not high enough, so I was</p> <p>16 not going to try to apply, because if I</p> <p>17 had to try again toward the end of that</p> <p>18 year, I probably would have wasted</p> <p>19 another year before I got in because all</p> <p>20 the applications were much earlier in the</p> <p>21 year.</p> <p>22 Q. How many medical schools did</p> <p>23 you apply to?</p> <p>24 A. For the Caribbean?</p>	<p>1 for a year.</p> <p>2 Q. One year. Did you</p> <p>3 eventually leave Ross?</p> <p>4 A. I did leave Ross.</p> <p>5 Q. Why?</p> <p>6 A. Ross is considered a weed</p> <p>7 out school.</p> <p>8 Q. What do you mean by that?</p> <p>9 A. Meaning, they'll start their</p> <p>10 first semester with approximately three</p> <p>11 to 500 students, and they only have room</p> <p>12 for maybe 125 by their first semester</p> <p>13 because of clinical rotations, so it</p> <p>14 basically -- they basically figure a</p> <p>15 cutoff and then they start having people</p> <p>16 repeat.</p> <p>17 Q. So to get into Ross</p> <p>18 University you didn't need an MCAT score?</p> <p>19 A. You did not need an MCAT</p> <p>20 score.</p> <p>21 Q. And to get into that Ross</p> <p>22 University medical school you did not</p> <p>23 need to be a premed major?</p> <p>24 A. No.</p>

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<p>1 Q. Were there any prerequisites</p> <p>2 in terms of your course work?</p> <p>3 A. At that time, I don't</p> <p>4 remember exactly what it was. They did</p> <p>5 accept me so whatever I was doing was</p> <p>6 considered enough.</p> <p>7 Q. How much did it cost? Do</p> <p>8 you remember how much it cost to go to</p> <p>9 Ross University medical school?</p> <p>10 A. I don't remember.</p> <p>11 Q. So were you one of the</p> <p>12 people that were weeded out then?</p> <p>13 A. The first semester I did not</p> <p>14 do too well. I was borderline. I wound</p> <p>15 up having to repeat my first semester. I</p> <p>16 passed my first semester the second time</p> <p>17 around. I passed my second semester. I</p> <p>18 was going into my third semester when I</p> <p>19 decided to transfer.</p> <p>20 Q. Why didn't you do well in</p> <p>21 your first semester?</p> <p>22 A. I think it was just the</p> <p>23 experience of just going down to the</p> <p>24 Caribbean for the first time. I was</p>	<p>1 make the move.</p> <p>2 Q. Okay.</p> <p>3 A. Once you -- go ahead.</p> <p>4 Q. So this friend that</p> <p>5 you -- what was her name?</p> <p>6 A. Neeru.</p> <p>7 Q. How do you spell that?</p> <p>8 A. N-E-E-R-U.</p> <p>9 Q. What school did Neeru</p> <p>10 transfer to?</p> <p>11 A. To St. Matthew's.</p> <p>12 Q. And where was that school?</p> <p>13 A. At that time it was in</p> <p>14 Belize. It was in San Pedro. It was a</p> <p>15 small island on the outside of Belize.</p> <p>16 Q. Was she your girlfriend at</p> <p>17 the time or just a friend?</p> <p>18 A. No. Just a friend.</p> <p>19 Q. And so you decided to</p> <p>20 transfer to the same school?</p> <p>21 A. Yes.</p> <p>22 Q. And so you attended -- I'm</p> <p>23 sorry. Give me the full name of the</p> <p>24 school?</p>
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<p>1 still young. I was only like -- what was</p> <p>2 it? '99, so I was only 22 years old, not</p> <p>3 even 22 yet and just, you know, I didn't</p> <p>4 take things as seriously as I should</p> <p>5 have.</p> <p>6 Q. Were you asked to transfer</p> <p>7 or --</p> <p>8 A. No. I was never asked to</p> <p>9 ever leave the school.</p> <p>10 Q. But you knew that you were</p> <p>11 going to have to repeat?</p> <p>12 A. No. I repeated my first</p> <p>13 semester. I passed my second semester,</p> <p>14 so I was actually in my third semester,</p> <p>15 about five days in when I decided to</p> <p>16 switch.</p> <p>17 Q. So if you were on track,</p> <p>18 what was it that made you --</p> <p>19 A. Well, one of my close</p> <p>20 friends and one of my friends that I had</p> <p>21 studied a lot with, she transferred over.</p> <p>22 I found out about the school. People</p> <p>23 were saying the school is very good, so</p> <p>24 at that time I just made a decision to</p>	<p>1 A. St. Matthew's School of</p> <p>2 Medicine. Currently, they're in the</p> <p>3 Grand Caymans.</p> <p>4 Q. But it was in Belize when</p> <p>5 you went there?</p> <p>6 A. Yes.</p> <p>7 Q. So when did you start there?</p> <p>8 A. I started there September</p> <p>9 2000.</p> <p>10 Q. Through?</p> <p>11 A. I believe it was either</p> <p>12 December 2001 or January 2002.</p> <p>13 Q. Did they accept your credits</p> <p>14 from Ross University?</p> <p>15 A. Yes, they did.</p> <p>16 Q. And when you were -- was</p> <p>17 that also a weed out school, would you</p> <p>18 say?</p> <p>19 A. No.</p> <p>20 Q. But there was not a need to</p> <p>21 have a premed background?</p> <p>22 A. By that time I'm a transfer,</p> <p>23 so I don't know what their requisites are</p> <p>24 for first year students -- first semester</p>

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<p>1 students.</p> <p>2 Q. But they didn't require MCAT</p> <p>3 scores?</p> <p>4 A. I don't know. I didn't need</p> <p>5 one because I was transferring.</p> <p>6 Q. So why did you end up</p> <p>7 leaving St. Matthew's University?</p> <p>8 A. So St. Matthew's after</p> <p>9 finishing San Pedro where there was a</p> <p>10 hurricane, we wound up getting all</p> <p>11 evacuated to Orlando. Orlando we did one</p> <p>12 semester and then my fourth and fifth</p> <p>13 semester was up in Maine.</p> <p>14 Q. Why Maine?</p> <p>15 A. Maine is where their U.S.</p> <p>16 campus was. They would do -- people who</p> <p>17 were part of the master's program were</p> <p>18 able to do the med school as well as the</p> <p>19 master's program at the same time up in</p> <p>20 Maine.</p> <p>21 So while I was up there I</p> <p>22 finished my fourth and fifth semester.</p> <p>23 Then you go to clinicals. I went to</p> <p>24 England, Manchester, England to do my</p>	<p>1 happening.</p> <p>2 Late December I got a call</p> <p>3 from St. Christopher University. I</p> <p>4 didn't find them. They found me.</p> <p>5 Basically said that if you want to</p> <p>6 transfer over, you can go to New York to</p> <p>7 do some of your clinicals or we'll get</p> <p>8 you back into the U.S. to do your</p> <p>9 clinicals for the rest of your way.</p> <p>10 Q. Do you know how they got</p> <p>11 your name?</p> <p>12 A. No idea.</p> <p>13 Q. Had you heard of them</p> <p>14 before?</p> <p>15 A. St. Christopher's, actually,</p> <p>16 I never really heard of them. The name</p> <p>17 had been out there. They were more of a</p> <p>18 newer school. So when Dr. Leone called</p> <p>19 me, he explained to me their office was</p> <p>20 in Scotch Plains, New Jersey which is</p> <p>21 right outside of Staten Island.</p> <p>22 So I listened to what he</p> <p>23 said, and the fact that he was willing to</p> <p>24 take me back into the U.S. right away, I</p>
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<p>1 clinicals. I went there in, I think,</p> <p>2 late August, early September and then we</p> <p>3 had the attacks, World Trade on 9/11</p> <p>4 here.</p> <p>5 Q. What made you go to</p> <p>6 Manchester, England for your clinicals?</p> <p>7 A. They were able to let me</p> <p>8 start right away. I didn't need to</p> <p>9 finish my Step 1 first.</p> <p>10 Q. So when September 11th</p> <p>11 happened you were in Manchester?</p> <p>12 A. I was in Manchester at the</p> <p>13 time.</p> <p>14 Q. Did you return back to the</p> <p>15 United States?</p> <p>16 A. I couldn't return back for a</p> <p>17 couple days, could not communicate with</p> <p>18 anyone downtown, my parents in Staten</p> <p>19 Island. My family worked and lived and</p> <p>20 went to school downtown. So, obviously,</p> <p>21 after that happened, all the news and</p> <p>22 everything, talk about new attacks and</p> <p>23 all the other issues and, actually, in</p> <p>24 England as well there were attacks</p>	<p>1 said, you know what? I might as well go.</p> <p>2 Q. Did other people that you</p> <p>3 know transfer from St. Matthew's to St.</p> <p>4 Christopher?</p> <p>5 A. Honestly, I don't remember.</p> <p>6 Q. And St. Christopher, is that</p> <p>7 St. Christopher Iba Mar Diop?</p> <p>8 A. Yes, it is. Actually, Neeru</p> <p>9 did transfer a little later into St.</p> <p>10 Christopher's as well.</p> <p>11 Q. And St. Christopher's is</p> <p>12 based out of Senegal. Is that right?</p> <p>13 A. Yeah. The charter of</p> <p>14 Senegal.</p> <p>15 Q. And did you ever -- but you</p> <p>16 never went to school in Senegal. Is that</p> <p>17 correct?</p> <p>18 A. No. Their campus was in</p> <p>19 England, right outside of London, but</p> <p>20 that's basically the basic sciences, so I</p> <p>21 never had to attend over there.</p> <p>22 Q. And did St. Christopher</p> <p>23 accept your transfer credits from St.</p> <p>24 Matthew's and Ross University?</p>

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<p>1 A. Yes, they did.</p> <p>2 Q. And when did you graduate</p> <p>3 from St. Christopher?</p> <p>4 A. 2003, June.</p> <p>5 Q. What were your grades like</p> <p>6 in medical school?</p> <p>7 A. Well, basic sciences I did</p> <p>8 very well towards my end. I passed</p> <p>9 pathophys., anatomy and physiology --</p> <p>10 well, not anatomy. Physiology,</p> <p>11 psychology, pharmacology, all those I did</p> <p>12 well.</p> <p>13 Q. What happened with anatomy?</p> <p>14 A. Just -- I just never really</p> <p>15 got into it. Now I teach it so it's kind</p> <p>16 of ironic, but now I have a better grasp,</p> <p>17 I guess.</p> <p>18 Q. Did you pass it in medical</p> <p>19 school?</p> <p>20 A. I did pass it, yeah, my</p> <p>21 second time. That was one of the classes</p> <p>22 I had messed up my first semester at</p> <p>23 Ross. That was mainly because of the</p> <p>24 lab.</p>	<p>1 New York.</p> <p>2 Q. And where did you rotate in</p> <p>3 Atlanta? What was the name?</p> <p>4 A. Ridgeview Institute.</p> <p>5 Q. How about in Connecticut?</p> <p>6 A. Griffin Hospital in Derby as</p> <p>7 well as Saint Raphael's in New Haven.</p> <p>8 Q. And how about in New York?</p> <p>9 A. Flushing Hospital was for</p> <p>10 pediatrics and OB-GYN, and Northport VA</p> <p>11 Hospital were some of my electives.</p> <p>12 Q. Did you have any jobs during</p> <p>13 medical school?</p> <p>14 A. I was still working at the</p> <p>15 nursing home as a dietary aide sometimes</p> <p>16 while I was back in the country in</p> <p>17 between semesters, so they left me on</p> <p>18 payroll.</p> <p>19 Q. Any other employment?</p> <p>20 A. Not that I recall.</p> <p>21 Q. When did you begin studying</p> <p>22 for the USMLE?</p> <p>23 A. It was throughout med</p> <p>24 school. I mean, I studied here and</p>
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<p>1 Q. Do you know what your grade</p> <p>2 point average was for medical school?</p> <p>3 A. I don't remember. They do</p> <p>4 it a little differently because once you</p> <p>5 get to clinicals, it's just pass or fail,</p> <p>6 so I don't know the cum average.</p> <p>7 Q. At what point in time -- did</p> <p>8 you do clinical rotations then?</p> <p>9 A. I did.</p> <p>10 Q. And where did you do the</p> <p>11 clinical rotations?</p> <p>12 A. So like I said, I had</p> <p>13 originally started my medicine rotation</p> <p>14 and some OB-GYN in Manchester. I did</p> <p>15 psych in Atlanta. I did surgery in</p> <p>16 Connecticut. I did pediatrics in New</p> <p>17 York. What am I missing? OB-GYN was in</p> <p>18 New York, Flushing and then I did all</p> <p>19 my -- basically all my electives in</p> <p>20 Connecticut and Northport, the VA</p> <p>21 hospital.</p> <p>22 Q. In Connecticut?</p> <p>23 A. No. In New York. My</p> <p>24 electives were between Connecticut and</p>	<p>1 there. Because I went straight from</p> <p>2 first semester into clinicals, I never</p> <p>3 really took my time to sit down and just</p> <p>4 study Step 1, so I kept trying to do it</p> <p>5 along the way which was a big mistake.</p> <p>6 Q. What study methods did you</p> <p>7 use for Step 1?</p> <p>8 A. Basically, First Aid which</p> <p>9 is a Bible for --</p> <p>10 Q. What's it called?</p> <p>11 A. First Aid.</p> <p>12 Q. First Aid?</p> <p>13 A. First Aid. They call it the</p> <p>14 Bible for med students for Step 1. Did</p> <p>15 some, I think -- the Kaplan review course</p> <p>16 was part of the fifth semester at St.</p> <p>17 Matthew's, meaning they gave us some</p> <p>18 Kaplan materials so it covered through</p> <p>19 that, some question banks, assessment</p> <p>20 tests.</p> <p>21 Q. So First Aid, Kaplan.</p> <p>22 Anything else?</p> <p>23 A. Like I said, the USMLE</p> <p>24 World. I don't know when that started.</p>

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<p>1 Q. Is that online?</p> <p>2 A. It was online. NBME</p> <p>3 assessment tests, Kaplan Qbank and then</p> <p>4 some other review courses that were out</p> <p>5 there.</p> <p>6 Q. What other review courses?</p> <p>7 A. I did PASS program which is</p> <p>8 located in Illinois. I did Northwest</p> <p>9 Medical Review. At that time it was in</p> <p>10 Michigan, right outside of Michigan State</p> <p>11 University. I also did the Kaplan and</p> <p>12 then I believe that was it for Step 1.</p> <p>13 Q. When you say you did PASS</p> <p>14 program in Illinois, did you actually go</p> <p>15 to Illinois?</p> <p>16 A. Yes, I did.</p> <p>17 Q. Did you live there?</p> <p>18 A. I did. You have to stay</p> <p>19 there to take the course.</p> <p>20 Q. And you said Northwest</p> <p>21 Medical Review in Michigan. Did you</p> <p>22 actually live there as well?</p> <p>23 A. Yes, I did.</p> <p>24 Q. Kaplan question bank or</p>	<p>1 Suliman I believe started only in 2007.</p> <p>2 I passed my Step 1 in 2006.</p> <p>3 Q. How did you learn about all</p> <p>4 these other review courses that you took?</p> <p>5 A. You Google online.</p> <p>6 Q. What other -- were there any</p> <p>7 available USMLE Step 1 prep courses that</p> <p>8 you didn't take?</p> <p>9 A. Well, I don't know when</p> <p>10 Falcon started. I know that's one that's</p> <p>11 out there right now. Premier Review does</p> <p>12 the Step 2, Step 3. I don't know if they</p> <p>13 do Step 1. I guess that's it. I don't</p> <p>14 really know what else is out there.</p> <p>15 Q. And which exam -- or which</p> <p>16 prep courses did your friends take?</p> <p>17 A. Most people took Kaplan.</p> <p>18 That seemed to be the premier one that</p> <p>19 most people liked to take. As time went</p> <p>20 on some people started with Falcon 'cause</p> <p>21 Dr. Goljan who was with Kaplan left and</p> <p>22 started on his own.</p> <p>23 Q. Do you still have any study</p> <p>24 materials from any of those?</p>
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<p>1 Kaplan Qbank, is that an online system?</p> <p>2 A. They have an online as well</p> <p>3 as a Q book.</p> <p>4 Q. Which did you use?</p> <p>5 A. I did both. I had access to</p> <p>6 both. I didn't really complete all of</p> <p>7 them but I did here and there.</p> <p>8 Q. The NBME assessment tests,</p> <p>9 did you use an online system to access</p> <p>10 that?</p> <p>11 A. Yes, I did.</p> <p>12 Q. And USMLE World, we already</p> <p>13 covered that's an online system, right?</p> <p>14 A. That's right.</p> <p>15 Q. Did you study with Optima</p> <p>16 University at all for your first --</p> <p>17 A. For Step 1, no.</p> <p>18 Q. Why not?</p> <p>19 A. I didn't know about the</p> <p>20 course, and I believe when I passed, he</p> <p>21 wasn't even in existence yet.</p> <p>22 Q. When you say "he," you mean</p> <p>23 Suliman?</p> <p>24 A. Optima University. Dr.</p>	<p>1 A. For which courses?</p> <p>2 Q. Any of those courses?</p> <p>3 A. I don't know. Kaplan I, may</p> <p>4 have some old books. PASS program, I may</p> <p>5 have my own notebook.</p> <p>6 Q. Among your peers that you</p> <p>7 graduated with from St. Christopher, did</p> <p>8 many of them pass the USMLE Step 1?</p> <p>9 A. I never really got close to</p> <p>10 many people with my graduating class. It</p> <p>11 was a very small class.</p> <p>12 Q. How many were in it?</p> <p>13 A. Less than 25, I believe.</p> <p>14 Q. Do you know whether they --</p> <p>15 A. From what I've heard, I</p> <p>16 mean, the one or two people I did know</p> <p>17 were on the way to getting into residency</p> <p>18 from what I understand. I know Neeru,</p> <p>19 she graduated. She's finished residency</p> <p>20 in Georgia so she's done, obviously, but</p> <p>21 I don't know of anybody else.</p> <p>22 Q. Is she practicing medicine</p> <p>23 now?</p> <p>24 A. She's kind of practicing</p>

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<p>1 with her husband. Her husband is an 2 orthopedic surgeon, so she's running his 3 clinic and having babies so...</p> <p>4 Q. Did you know anyone else who 5 had an indeterminate score on any Step of 6 the USMLE?</p> <p>7 A. Indeterminate meaning, like, 8 similar to mine where they had to 9 validate?</p> <p>10 Q. Right.</p> <p>11 A. Yes, I did.</p> <p>12 Q. Who?</p> <p>13 A. Any students who went to 14 Optima who got a letter kind of told me 15 their situation.</p> <p>16 Q. So did you become friends 17 with most of the other students at 18 Optima?</p> <p>19 A. I don't know if I was 20 friends. I knew all the students because 21 they all had to come through me at some 22 point once I started working there. A 23 lot of them wound up having to come to me 24 when the FBI came.</p>	<p>1 to worry about it; that everything will 2 get back to normal once he proved 3 himself, and he has his lawyers on it.</p> <p>4 Q. And did you believe him?</p> <p>5 A. I did actually believe him.</p> <p>6 Q. Even after you spent two to 7 three hours with the FBI?</p> <p>8 A. The FBI asked me the same 9 questions. I told them everything I 10 know. Basically, I took it for face 11 value.</p> <p>12 Q. Do you still believe Dr. 13 Suliman?</p> <p>14 A. Now that I've seen articles 15 and stuff; his wife is basically saying 16 she was doing it with him, then I have to 17 say that he was lying to all of us.</p> <p>18 Q. What do you mean his wife 19 said she was doing it?</p> <p>20 A. I'm sorry. I think she 21 testified that she went in and videotaped 22 exams, at least this is what I've seen in 23 the articles. I haven't talked to her 24 directly or seen direct transcripts from</p>
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<p>1 Q. What do you mean they had to 2 come to you?</p> <p>3 A. Well, Dr. Suliman was not in 4 the country at the time, so everyone who 5 was going through the situation, they 6 were asking what's going on. So since I 7 was really the only one that was kind of 8 there, they all would come to me and ask.</p> <p>9 Q. During that time did Dr. 10 Suliman ask you to kind of take care of 11 things in the U.S. with the students?</p> <p>12 A. He didn't ask me. In fact, 13 we didn't get communication with him for 14 a couple days after the FBI came. A lot 15 of students left. I didn't feel right 16 leaving other students behind, so I stuck 17 it out until he came back, basically.</p> <p>18 Q. What were your conversations 19 like with Dr. Suliman after the FBI 20 raided Optima?</p> <p>21 A. He basically told us that 22 there's nothing to worry about, that he's 23 done nothing wrong, that it's all a 24 racist thing because he's Muslim and not</p>	<p>1 the case so I wouldn't know.</p> <p>2 Q. Did you know when you were 3 working there that people had videotaped 4 or photographed exams?</p> <p>5 A. No. Never.</p> <p>6 Q. So how many other students 7 would you say you knew from Optima 8 University that had that indeterminate 9 designation on their USMLE record?</p> <p>10 A. I would say that well over 11 30 or so, but he had close to a hundred 12 students.</p> <p>13 Q. So 30 out of the hundred?</p> <p>14 A. Probably. If we go back to 15 what you had said before in terms of 16 reputational damages and stuff, a lot of 17 students, once it got to that point in 18 Tennessee, stopped even contacting me, 19 and even when I reached out to them for 20 things that I needed, they refused to 21 take my call. So, basically, the 22 association became me associated with 23 him.</p> <p>24 Q. And why would you have</p>

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<p>1 reached out -- like for what sorts of</p> <p>2 things were you reaching out to them?</p> <p>3 A. There were some students who</p> <p>4 had lived in the apartment that I was</p> <p>5 living in.</p> <p>6 Q. At Optima?</p> <p>7 A. At Optima. Other students</p> <p>8 had left to Tennessee, and I would get</p> <p>9 random calls about things and asking me,</p> <p>10 do you know this? Do you know that? So</p> <p>11 I'd reach out to other people who may</p> <p>12 have been down there.</p> <p>13 Plus, there are some that I</p> <p>14 knew as friends. We would drink</p> <p>15 together. We'd go out, hang out, have</p> <p>16 dinner or whatever together and just</p> <p>17 reaching out to reach out, birthdays and</p> <p>18 stuff and just never got a reply back.</p> <p>19 Q. Did you feel that people</p> <p>20 were angry with you?</p> <p>21 A. I don't think anyone was</p> <p>22 angry with me because they all knew that</p> <p>23 when he disappeared I was still there, so</p> <p>24 I don't think anyone held me responsible</p>	<p>1 A. I don't remember. I know a</p> <p>2 lot of them went for hearings. Some were</p> <p>3 considered indeterminate or invalid. I</p> <p>4 don't know what happened after them</p> <p>5 because, like I said, they stopped</p> <p>6 contacting me. And then there was a</p> <p>7 bunch that were basically let go and</p> <p>8 they're in residency and done now.</p> <p>9 Q. Are you in touch with any of</p> <p>10 those people?</p> <p>11 A. Off and on. I'll see some</p> <p>12 of them at weddings and stuff, but I</p> <p>13 don't keep in touch with anybody, really.</p> <p>14 Q. Can you give me the names of</p> <p>15 anybody that you know that was in the</p> <p>16 same situation you were in with regard to</p> <p>17 having to validate their indeterminate</p> <p>18 score?</p> <p>19 A. My friend, Reeju Thomas.</p> <p>20 Q. How do you spell that?</p> <p>21 A. R-E-E-J-U, Thomas. Samuel</p> <p>22 might be in there also as a middle name</p> <p>23 or last name. He was found</p> <p>24 indeterminate. I believe he was actually</p>
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<p>1 for anything. But I think one went as</p> <p>2 far as to say, you know, that when they</p> <p>3 talked to NBME they were told that I</p> <p>4 worked there and I worked with him, so</p> <p>5 they felt they shouldn't talk to me</p> <p>6 anymore.</p> <p>7 So, to me, I mean, I think a</p> <p>8 part of it was just by association. So</p> <p>9 they were just -- they figured if they</p> <p>10 talked to me then they didn't want to be</p> <p>11 in that association as well, so they just</p> <p>12 kept clear, which I can understand which</p> <p>13 is why I don't really hold a grudge</p> <p>14 against anyone.</p> <p>15 Q. Do you know of those 30</p> <p>16 people that have the indeterminate -- or</p> <p>17 about 30 people that have the</p> <p>18 indeterminate designation, how many of</p> <p>19 them took the validating exam?</p> <p>20 A. I only heard of, I think,</p> <p>21 three people that took the validation</p> <p>22 exam.</p> <p>23 Q. What did the rest of them</p> <p>24 do?</p>	<p>1 the first student that NBME contacted.</p> <p>2 He went through a whole ordeal, finally</p> <p>3 took the exam, validated one and then</p> <p>4 based on that validation, they validated</p> <p>5 the other one without him having to</p> <p>6 retake it.</p> <p>7 Q. Anybody else?</p> <p>8 A. I don't remember who</p> <p>9 actually validated and who got off.</p> <p>10 Q. Well, just give us the names</p> <p>11 of anybody who had that indeterminate?</p> <p>12 A. Farhana Chowdhury I know had</p> <p>13 similar numbers to me and she was</p> <p>14 validated.</p> <p>15 Q. She was validated. Anybody</p> <p>16 else?</p> <p>17 A. There's a bunch of people</p> <p>18 that had to go in. I don't remember all</p> <p>19 the names.</p> <p>20 Q. Tell us as many as you do</p> <p>21 remember.</p> <p>22 A. I know Samir did. I don't</p> <p>23 know his last name. His sister was</p> <p>24 there.</p>

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<p>1 Q. His sister was where?</p> <p>2 A. Also called in. She was</p> <p>3 also at Optima. Manjit.</p> <p>4 Q. Do you know Manjit's last</p> <p>5 name?</p> <p>6 A. A lot of them I know by</p> <p>7 first name because, like I said, I don't</p> <p>8 keep in touch with them, so I don't</p> <p>9 remember. If you give me a list then</p> <p>10 it'd be easier for me to say names.</p> <p>11 Q. Did any of those -- well, do</p> <p>12 you know anyone else who has sued the</p> <p>13 NBME or the ECFMG?</p> <p>14 A. No. I'm the only one.</p> <p>15 Sandeep Shukla.</p> <p>16 Q. How do you spell his last</p> <p>17 name?</p> <p>18 A. S-H-U-K-L-A. And he worked</p> <p>19 for Suliman, also, but he was validated;</p> <p>20 I don't know how, and he's done residency</p> <p>21 now.</p> <p>22 Q. What did he do for Suliman?</p> <p>23 What kind of work?</p> <p>24 A. He was an original from the</p>	<p>1 Q. What was compelling to you</p> <p>2 about Optima?</p> <p>3 A. The words guaranteed passing</p> <p>4 or your money back.</p> <p>5 Q. How much did you pay to go?</p> <p>6 A. \$5,000.</p> <p>7 Q. Did you get your money back?</p> <p>8 A. I passed.</p> <p>9 Q. So no?</p> <p>10 A. No.</p> <p>11 Q. How did you enroll?</p> <p>12 A. You go in and you talk to</p> <p>13 him and he sets you up. Dr. Suliman sets</p> <p>14 you up.</p> <p>15 Q. Did you know other people</p> <p>16 who enrolled, too?</p> <p>17 A. People who were in the</p> <p>18 course, yeah. My girlfriend was there.</p> <p>19 Q. What was your girlfriend's</p> <p>20 name?</p> <p>21 A. Simin, S-I-M-I-N.</p> <p>22 Q. Last name?</p> <p>23 A. Huda, H-U-D-A.</p> <p>24 Q. Did she take Optima?</p>
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<p>1 beginning of time. Before I was working</p> <p>2 there he'd be the go-to. He helped them,</p> <p>3 hooked them up with people, supplies.</p> <p>4 Q. Did he have kind of the same</p> <p>5 role at the organization?</p> <p>6 A. He was kind of an indirect</p> <p>7 role before I came and then even after I</p> <p>8 came, then he started actually doing some</p> <p>9 lectures, I believe.</p> <p>10 Q. So you sort of took the</p> <p>11 position that he used to have?</p> <p>12 A. Well, he wasn't really given</p> <p>13 a position. He just helped because him</p> <p>14 and Suliman were close and then I think</p> <p>15 he started teaching a little bit, and</p> <p>16 what else did he do? He was at first</p> <p>17 Step 1 and Step 2.</p> <p>18 Q. How did you first learn</p> <p>19 about Optima?</p> <p>20 A. At that time my girlfriend</p> <p>21 had a friend who went to the ladies' gym</p> <p>22 that's right next door, and in the</p> <p>23 doorway there was a poster that talked</p> <p>24 about a review course.</p>	<p>1 A. She took the course.</p> <p>2 Q. Same time you did?</p> <p>3 A. She did. She failed her</p> <p>4 Step 1.</p> <p>5 Q. Did she get her money back?</p> <p>6 A. No. He never really gave</p> <p>7 anyone their money back. He kind of</p> <p>8 convinced them to stay back on the course</p> <p>9 again and most people didn't.</p> <p>10 Q. So it was like you can</p> <p>11 either have your money back or you can</p> <p>12 take the course for free until you pass?</p> <p>13 A. Basically.</p> <p>14 Q. And where was Optima located</p> <p>15 when you went?</p> <p>16 A. It was in the business</p> <p>17 building in Totowa, New Jersey. It was</p> <p>18 like a shopping complex right off of</p> <p>19 Route 46.</p> <p>20 Q. Where were the dormitories?</p> <p>21 A. There were no dormitories.</p> <p>22 Q. You didn't live there?</p> <p>23 A. No. I did. People found</p> <p>24 their own apartments throughout Paterson</p>

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<p>1 and Totowa.</p> <p>2 Q. Did you live with other</p> <p>3 Optima students?</p> <p>4 A. When I first started I</p> <p>5 didn't live there and then as time went</p> <p>6 on I moved out to Paterson and lived with</p> <p>7 some other students.</p> <p>8 Q. Who else did you live with?</p> <p>9 A. At that time it was Cecil</p> <p>10 Cherian, Toby, I think Matthews is his</p> <p>11 last name. I don't even remember. Reemu</p> <p>12 was living there off and on and then</p> <p>13 there was some girls that were living</p> <p>14 downstairs and some other people in the</p> <p>15 area.</p> <p>16 Q. Where did Dr. Suliman live?</p> <p>17 A. No idea. I think it was</p> <p>18 Elizabeth.</p> <p>19 Q. And how often did you see</p> <p>20 him?</p> <p>21 A. When he was in the country</p> <p>22 he was there every day. That was his</p> <p>23 pride and joy.</p> <p>24 Q. How often was he in the</p>	<p>1 employee from February 2008 to August</p> <p>2 2008?</p> <p>3 A. Approximately, yeah.</p> <p>4 Q. When's the last time that</p> <p>5 you saw Suliman?</p> <p>6 A. On the day before he left to</p> <p>7 Tennessee.</p> <p>8 Q. Are you still in touch with</p> <p>9 him at all?</p> <p>10 A. No.</p> <p>11 Q. How did you contact him</p> <p>12 after that?</p> <p>13 A. After he was still in</p> <p>14 Tennessee for a while so he still had his</p> <p>15 phone and everything. When the whole</p> <p>16 situation came when he was raided and</p> <p>17 people getting called in, I tried to</p> <p>18 reach out to him. He didn't get back to</p> <p>19 me until days later.</p> <p>20 Q. And when did Dr. Suliman go</p> <p>21 to Tennessee?</p> <p>22 A. I think it was August,</p> <p>23 September.</p> <p>24 Q. So shortly after?</p>
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<p>1 country?</p> <p>2 A. He would leave randomly.</p> <p>3 The majority of the time he was in the</p> <p>4 center.</p> <p>5 Q. So what are the dates that</p> <p>6 you were a student at Optima?</p> <p>7 A. I went in around November</p> <p>8 15th, give or take a couple days, and I</p> <p>9 took the exam December 31st.</p> <p>10 Q. So about a month and a half?</p> <p>11 A. Yeah, but I was out with</p> <p>12 gastritis in the middle, and I missed</p> <p>13 some of the holidays.</p> <p>14 Q. And what was the range of</p> <p>15 dates that you were an employee at</p> <p>16 Optima?</p> <p>17 A. I think I started some time</p> <p>18 February, and I think it was until around</p> <p>19 August.</p> <p>20 Q. Of that next year?</p> <p>21 A. Of 2008, yeah.</p> <p>22 Q. So you were a student from</p> <p>23 about November 15th, 2007 to December</p> <p>24 31st, 2007, and you were an Optima</p>	<p>1 A. No. I was basically there</p> <p>2 until the day he left, so I don't know</p> <p>3 exact dates so I can't say. I know it</p> <p>4 was at the end of summer, into September,</p> <p>5 so either August or September, I believe,</p> <p>6 is when he left.</p> <p>7 Q. So when Dr. Suliman came</p> <p>8 back to Optima that's when you left?</p> <p>9 A. I'm sorry. Say that again.</p> <p>10 Q. When Dr. Suliman came back</p> <p>11 to Optima in Tennessee, that's when you</p> <p>12 left?</p> <p>13 A. Came back from...</p> <p>14 Q. I'm sorry. Scratch that.</p> <p>15 He came -- he was overseas</p> <p>16 when Optima was in New Jersey and was</p> <p>17 raided?</p> <p>18 A. In May. In May of 2008.</p> <p>19 Q. Right.</p> <p>20 A. He came back some time, I</p> <p>21 think, June.</p> <p>22 Q. And moved...?</p> <p>23 A. No. He put back a skeletal</p> <p>24 system for the summer, June, July,</p>

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<p>1 August. He had everything up and running</p> <p>2 again and then at some point he decided</p> <p>3 he's moving to Tennessee.</p> <p>4 Q. Were you part of the move to</p> <p>5 Tennessee?</p> <p>6 A. No. I did not go to</p> <p>7 Tennessee.</p> <p>8 Q. Why not?</p> <p>9 A. I was a New Yorker. No</p> <p>10 reason to go to Tennessee. Plus, in 2008</p> <p>11 I was doing some research as well, so at</p> <p>12 that point my focus is to start studying</p> <p>13 for Step 3.</p> <p>14 Q. What kind of research were</p> <p>15 you doing?</p> <p>16 A. Health and Hospitals</p> <p>17 Corporation had a research group. I was</p> <p>18 working on dialysis research.</p> <p>19 Q. And so when was Dr. Suliman</p> <p>20 in Tennessee then?</p> <p>21 A. I know he left, like I said,</p> <p>22 somewhere towards the end of summer, fall</p> <p>23 and then I don't know when he was</p> <p>24 actually shut down over there. I heard</p>	<p>1 A. For...?</p> <p>2 Q. Everything that's happened?</p> <p>3 A. Did he steal the questions</p> <p>4 based on what the evidence is? Yes. Do</p> <p>5 I blame him for what I chose to do at</p> <p>6 that time? No, because I don't really</p> <p>7 know. He lied to everybody. I don't</p> <p>8 know what we're blaming him for. The</p> <p>9 situation everyone's in, I guess yeah.</p> <p>10 Q. When you say he lied to</p> <p>11 everyone, what do you mean?</p> <p>12 A. Well, if you're telling me</p> <p>13 that there's proof that he stole the</p> <p>14 questions and he said he worked hard to</p> <p>15 make the questions himself, then he was</p> <p>16 lying.</p> <p>17 Q. But you don't hold him</p> <p>18 responsible for that?</p> <p>19 A. For the situation I'm in</p> <p>20 right now? The situation right now, I</p> <p>21 went in thinking that I was doing the</p> <p>22 right thing. The situation I am in right</p> <p>23 now is NBME basically saying that they</p> <p>24 have proof that I stole stuff I didn't</p>
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<p>1 from students he got raided twice, so I</p> <p>2 don't know what really happened with all</p> <p>3 that.</p> <p>4 Q. Did you ever consider suing</p> <p>5 Optima University or Dr. Suliman?</p> <p>6 A. When?</p> <p>7 Q. Ever?</p> <p>8 A. No.</p> <p>9 Q. Well, they -- you paid them</p> <p>10 \$5,000, right?</p> <p>11 A. Yes.</p> <p>12 Q. And now you know that they</p> <p>13 gave you a question bank of stolen test</p> <p>14 questions?</p> <p>15 A. And he still is a fugitive</p> <p>16 and who's going to pay that? So I don't</p> <p>17 really see who I would be suing. The</p> <p>18 wife is in jail from what I understand,</p> <p>19 and he's a fugitive somewhere out East.</p> <p>20 So unless there's someone who would be in</p> <p>21 charge of all that or we can get it back</p> <p>22 from the government, I don't know of any</p> <p>23 legal way to sue him.</p> <p>24 Q. Do you blame Optima at all?</p>	<p>1 steal.</p> <p>2 Q. Right, but you're saying he</p> <p>3 duped you?</p> <p>4 A. He duped all of us. That's</p> <p>5 fine, but, again, my situation right now</p> <p>6 is not based on him duping me. My</p> <p>7 situation right now is that NBME claims</p> <p>8 that I had access to questions that he</p> <p>9 may or may not have had when I was there.</p> <p>10 And I have already said</p> <p>11 multiple times he had updates in March of</p> <p>12 2008, and I have been given no proof that</p> <p>13 what they're comparing my exam to was</p> <p>14 there when I was there, so that's my main</p> <p>15 thing. And the statistical analysis I</p> <p>16 keep asking for I have yet to receive it.</p> <p>17 Q. What does the statistical</p> <p>18 analysis look like to you?</p> <p>19 A. I would actually like to see</p> <p>20 the questions you compared against, and</p> <p>21 if the questions are there in a data</p> <p>22 file, you'll have the date that the files</p> <p>23 were put into his system, and if you</p> <p>24 compare those dates, I guarantee they're</p>

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<p>1 not when I was there.</p> <p>2 Q. So let me just ask the</p> <p>3 question in a different way. When you</p> <p>4 say statistical analysis, do you actually</p> <p>5 mean that you want to see the questions?</p> <p>6 A. I actually do want to see.</p> <p>7 That's part of my analysis of it, yes.</p> <p>8 Q. But let me just finish my</p> <p>9 question before you answer.</p> <p>10 A. Sure.</p> <p>11 Q. When you say that you want</p> <p>12 to see a statistical analysis, do I take</p> <p>13 that to mean or do you mean by that that</p> <p>14 you want to see the actual test questions</p> <p>15 that were exposed test questions that</p> <p>16 were stolen by Optima and that you</p> <p>17 answered on the exam?</p> <p>18 A. Yes, I do.</p> <p>19 Q. In that statistical analysis</p> <p>20 is that all that you're seeking? Is that</p> <p>21 the sum and substance of what you're</p> <p>22 seeking?</p> <p>23 A. I'd also want to see the</p> <p>24 date that it was added to his system and</p>	<p>1 you should have it there.</p> <p>2 Q. And so is that what you mean</p> <p>3 by the statistical analysis?</p> <p>4 A. That's the start of the</p> <p>5 statistical analysis.</p> <p>6 Q. What's the rest of the</p> <p>7 statistical analysis?</p> <p>8 A. The rest of it is comparing</p> <p>9 it against my test to show that it does</p> <p>10 match up and then seeing how many I got</p> <p>11 right including the time stamps because</p> <p>12 like I said in my hearing, at the end of</p> <p>13 every block, if I wind up having ten</p> <p>14 questions left with a minute left, I'm</p> <p>15 not going to sit there reading them. I</p> <p>16 am going to click through. That is going</p> <p>17 to quicken my time, and if my exposed</p> <p>18 versus unexposed are in that section, it</p> <p>19 is going to affect my time.</p> <p>20 Same way if a question winds</p> <p>21 up being something difficult and I stare</p> <p>22 at it for a long time, that's going to</p> <p>23 wind up increasing my average time. So</p> <p>24 there is a big -- there is a lot to be</p>
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<p>1 also the date that you guys ran the</p> <p>2 analysis because if the analysis was run</p> <p>3 two, three years later with his full bank</p> <p>4 compared to my exam and nothing takes</p> <p>5 into account when they were added into</p> <p>6 his bank, then there's a faulty situation</p> <p>7 right there.</p> <p>8 Q. So what you're saying is</p> <p>9 that you want the NBME to tell you when</p> <p>10 Dr. Suliman added those questions to his</p> <p>11 question bank?</p> <p>12 A. I believe that's very</p> <p>13 pertinent to my case and to my situation.</p> <p>14 Q. Do you realize that some of</p> <p>15 those dates may not be available to the</p> <p>16 NBME; in other words, the NBME may not</p> <p>17 have knowledge of when Dr. Suliman added</p> <p>18 questions or didn't add questions to his</p> <p>19 question bank?</p> <p>20 A. If you have a data file and</p> <p>21 it shows what's there, every added</p> <p>22 document or every added thing should have</p> <p>23 a date -- creation date. So, in theory,</p> <p>24 if you have what you say you have, then</p>	<p>1 said, not just, oh, well, this percent</p> <p>2 was here and this is the time it took.</p> <p>3 And as Carson said,</p> <p>4 observation, not analysis. She said it</p> <p>5 multiple times to me. So according to</p> <p>6 the appeal and my rights according to the</p> <p>7 bulletin, I'm due an analysis, and she</p> <p>8 basically told me it was an observation,</p> <p>9 not an analysis. So already they went</p> <p>10 against their own policies and procedures</p> <p>11 which was part of my appeal process.</p> <p>12 Q. You had the opportunity to</p> <p>13 take a validating exam?</p> <p>14 A. I did.</p> <p>15 Q. And you failed the</p> <p>16 validating exam, correct?</p> <p>17 A. Yes.</p> <p>18 Q. There was also some time</p> <p>19 that you could have signed up for and</p> <p>20 taken Step 2 CK over again, correct?</p> <p>21 A. After the validation?</p> <p>22 Q. Right.</p> <p>23 A. Yes.</p> <p>24 Q. And you decided not to do</p>

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<p>1 that?</p> <p>2 A. I did.</p> <p>3 Q. Why?</p> <p>4 A. Because as you notice from</p> <p>5 before, I work a lot, and I was not able</p> <p>6 to put the time in, and I could not risk</p> <p>7 failing it again. Plus, they came up</p> <p>8 with the six-attempt rule and the</p> <p>9 seven-year rule. All that put together</p> <p>10 put me in a very weird and bad situation.</p> <p>11 Q. But before the existence of</p> <p>12 the six-attempt rule and before the</p> <p>13 existence of the seven-year rule, you had</p> <p>14 time to take Step 2 CK again?</p> <p>15 A. When would that time be?</p> <p>16 The validation exam was taken at the end</p> <p>17 of 2011.</p> <p>18 Q. Right.</p> <p>19 A. And at that time I was</p> <p>20 working multiple jobs, plus married with</p> <p>21 a kid. So the time to sit there and</p> <p>22 study as I did when I passed would mean I</p> <p>23 have to put everything aside and just</p> <p>24 study.</p>	<p>1 Q. And you canceled that</p> <p>2 attempt?</p> <p>3 A. I canceled it because at the</p> <p>4 time we were going through the</p> <p>5 whole -- let me explain the situation.</p> <p>6 September 2012 I registered</p> <p>7 for Step 2. At the time I was studying.</p> <p>8 I was working. I had a kid. I was</p> <p>9 working multiple jobs. I did not get to</p> <p>10 put the time in that I wanted.</p> <p>11 If I had the opportunity to</p> <p>12 continue taking the attempts, I probably</p> <p>13 would have just not taken the exam at the</p> <p>14 time and taken it at a later date.</p> <p>15 However, with the seven-year rule, as</p> <p>16 well as the six-attempt rule which is</p> <p>17 relatively new, basically, if I fail it,</p> <p>18 I'm done. I wasn't about to risk that</p> <p>19 again.</p> <p>20 So I decided not to take it</p> <p>21 because I had already six attempts, and</p> <p>22 the six-year rule was going into effect,</p> <p>23 I believe, January. So had I taken the</p> <p>24 exam and failed it, then I'm not even</p>
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<p>1 Q. Well, you were already</p> <p>2 studying for Step 3, right?</p> <p>3 A. I was studying for Step 3</p> <p>4 until 2009 when they stopped me. 2011 --</p> <p>5 from the time this whole ordeal started</p> <p>6 with NBME to 2011 I wasn't studying for</p> <p>7 Step 3 anymore.</p> <p>8 Q. I want to go back a little</p> <p>9 bit to what we were talking about with</p> <p>10 the statistical analysis and the</p> <p>11 observation.</p> <p>12 Can you define for me what</p> <p>13 the difference is between an observation</p> <p>14 and an analysis?</p> <p>15 A. An observation to me is</p> <p>16 one's opinion of what they see and how</p> <p>17 they determine what those numbers or</p> <p>18 those words mean. Statistical analysis</p> <p>19 is based on fact and numbers and gives a</p> <p>20 lot more detail as to what is there and</p> <p>21 why it's there, what it means.</p> <p>22 Q. Didn't you register to take</p> <p>23 Step 2 CK in September 2012?</p> <p>24 A. I did.</p>	<p>1 allowed to take another attempt.</p> <p>2 Q. But you were already at six</p> <p>3 attempts?</p> <p>4 A. But I was allowed to</p> <p>5 have -- that's why I was trying to</p> <p>6 get -- because we had grandfathered in,</p> <p>7 they were giving us an extension time</p> <p>8 until whatever it was, January, which is</p> <p>9 why I asked for the waiver to extend the</p> <p>10 period given the fact that I had no time.</p> <p>11 Two-and-a-half years is basically taken</p> <p>12 away from me in the process of this whole</p> <p>13 Optima situation.</p> <p>14 So I had asked to extend my</p> <p>15 seven-year period as well as extend my</p> <p>16 validation time or waiver from the</p> <p>17 six-attempt rule because of the time that</p> <p>18 I had lost. Had I been able to maybe</p> <p>19 take those exams I may have passed.</p> <p>20 Q. But you did have time to</p> <p>21 take those exams and you decided not to</p> <p>22 take them?</p> <p>23 A. Between when and when?</p> <p>24 Between 2011 -- well, first, I guess the</p>



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<p>1 question is, when is it that the six-year 2 rule would have taken effect? I believe 3 it's January 1st of 2013, so I had three 4 months from the time I registered. 5 And I'm saying I didn't have 6 the time to study the way I wanted to 7 study so, therefore, taking the exam and 8 failing it would have gotten me -- that's 9 it. I'm done. 10 Q. But you were in that 11 position anyway? 12 A. Which is why I applied for 13 the waiver. I understood the whole 14 situation which is why I asked for the 15 waiver for the seven-year and the 16 six-attempt rule. 17 Q. The real issue was that you 18 hadn't studied for it the way that you 19 wanted to study for it? 20 A. Yeah, because at the time we 21 were fighting the whole situation. 22 Q. Can you look in your exhibit 23 book to No. 30? You've seen this 24 document before, right?</p>	<p>1 A. Allegedly. Remember, I, to 2 this day, do not accept that I had that 3 many questions when I was taking this 4 course. 5 Q. But regardless of what you 6 accept, this document is an analysis of 7 your scores as it -- it compares the 8 percentage correct that were exposed 9 versus the percentage correct that were 10 unexposed -- 11 A. Okay. 12 Q. -- right? 13 A. That's what you're saying, 14 yes. 15 Q. No. I'm asking you. 16 A. Well, you're labeling it 17 that way, so I would have to assume yes. 18 Q. I didn't create this 19 document. You understand that, right? 20 A. I understand, but I didn't 21 create the document, either. 22 Q. But your position has been 23 that you want someone to show you an 24 analysis?</p>
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<p>1 A. Yes, I have. 2 Q. And this is an analysis of 3 your Step 2 CK examination that you took 4 on December 31st, 2007 that you -- 5 A. This is what Janet Carson 6 called an observation. 7 Q. She called that an 8 observation? 9 A. Yes, she did, and I said 10 that in the hearing, and she did not 11 rebut me. 12 Q. Let's take a look at it now. 13 This document records the percentage of 14 questions that were exposed and the 15 percentage of questions that you got 16 correct that were exposed, right? It 17 also records the number of answers that 18 you got correct from unexposed questions. 19 A. Okay. 20 Q. So of the exposed test 21 items, you got 84 percent correct. Of 22 the unexposed test items, you got 66 23 percent correct, and 32 percent of your 24 overall test had exposed items on it.</p>	<p>1 A. My position is there's a lot 2 of variables that go into these numbers, 3 and none of them have been labeled out to 4 me. 5 Q. What are the variables? 6 A. Variables, one, how many 7 questions are we talking about? 8 Q. Do you know how many 9 questions -- 10 A. I had to ask Janet Carson 11 later because the test is 300-some 12 questions, but they only count a certain 13 number of questions as part of the actual 14 exam. 15 Q. So now you have the answer 16 to that. 17 A. Fine. Then are these 18 questions considered at the beginning -- 19 towards the beginning of a block or the 20 end of a block? What are the subject 21 matters in these questions because 22 everyone has a different expertise and 23 different subject matter. 24 I'm great in psych. I'm</p>

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<p>1 great with anything with numbers, so I 2 may be quick like this to get them done, 3 but at the same time, if all the exposed 4 are all infectious disease, micro, stuff 5 that's harder, regardless, I'd be taking 6 more time with them. So it all depends 7 on what type of questions which is 8 another thing I requested and never was 9 given to me. 10 So, to me, an analysis is 11 not just a bunch of numbers with 12 percents. It's entire background to how 13 the numbers come about. That's the full 14 analysis to me. 15 Q. What you're saying, though, 16 is not that you weren't presented with 17 this information; it's just that you 18 don't accept it as an analysis? 19 A. Again, when this was 20 presented to me and I brought it up, 21 Janet Carson made it very clear that this 22 is an observation, not a statistical 23 analysis. 24 Q. Do the NBME and ECFMG's</p>	<p>1 Q. Why do you need to see the 2 exact questions? 3 A. Some questions are two 4 liners. Some questions are a full page 5 you have to read. It makes a difference. 6 Q. So it's the length of the 7 question? 8 A. Length of the question as 9 well makes a big difference. The type of 10 question makes a difference. 11 Q. What do you mean by type of 12 question? 13 A. Media questions versus 14 straightforward questions. Questions 15 that are in series. Questions that have 16 four choices versus questions that have A 17 through K. 18 Q. So the length of the 19 question, the type of question, where it 20 was in the block and the subject area? 21 A. And the number of answer 22 choices. 23 Q. Number of choices. Anything 24 else?</p>
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<p>1 labels matter to you or does it matter to 2 you what it is that you're given? 3 A. I believe both matter to me, 4 and what I'm given is not a full 5 analysis. This is more like a summary 6 page. If I gave a summary page to a 7 research person, they would not take it 8 as valid without seeing all the backup 9 data to it. Same exact way. If you're 10 going to give me this as my analysis, 11 then I'd like to see where you got to 12 this point. 13 Q. So if I understand you 14 correctly, the thing that is missing from 15 this that would make it an analysis is an 16 explanation of the subject areas that the 17 questions were in and the timing of the 18 questions, in other words, were they 19 toward the front of the block, the middle 20 of the block or the end of the questions? 21 A. That would be part of it. 22 Q. Okay. What else? 23 A. The exact questions 24 themselves.</p>	<p>1 A. That would be the ones that 2 come to my head right now. 3 Q. I want you to think about 4 it. Are there any other pieces that 5 would make this document a statistical 6 analysis in your mind? 7 A. You wrote subject matter? 8 Q. Yes. 9 A. In subject matter are you 10 describing that as the topic itself or 11 the subject, because within the subject 12 there are topics that take longer. 13 Q. I'm not sure what the 14 difference is. 15 A. Psychiatry is a subject to 16 me and a topic within psychiatry, let's 17 say, depression versus PTSD or 18 pharmacology of psychiatry makes a 19 difference. 20 Q. So subject and topic? 21 A. Yes. 22 Q. What else? 23 A. Other than -- the main thing 24 is, also, like I went back to is when</p>

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<p>1 they found it in the bank and whether 2 they can show that it was -- I had access 3 to it because that makes a big difference 4 of exposed. 5 If you can't prove to me 6 that I saw all those questions and I'm 7 telling you that I didn't, then 8 honestly -- if you wind up getting his 9 question bank in 2008 or if the FBI or 10 whoever gets his question bank when he's 11 in Tennessee and he's added all his 12 updates and now his bank is 2,000 13 questions, NBME does not change their 14 exam questions every month. They don't 15 change them every week. They change them 16 over a long period of time. 17 Q. How do you know that? 18 A. Because they usually shut 19 down in the first two months and they say 20 questions are updated, so they go to the 21 pool. Then of the 300-some questions, 22 the whole point is they put in these, I 23 guess, research questions type of things 24 to see whether or not enough people get</p>	<p>1 questions, so are you not giving credit 2 to any medical students who have taken 3 the exam? 4 I missed passing the exam by 5 one point, so it's not like I jumped from 6 where I had, like, a 60-something and I 7 jumped to an 80-something. I jumped from 8 a 74 to an 85, so there are going to be a 9 good number of questions that you may 10 find exposed that is general knowledge, 11 so then how is that taken into account? 12 So the questions themselves do make a 13 very big difference. 14 Q. And you see on this analysis 15 here, it says comparison group, N equals 16 1162? 17 A. Yes, I do. 18 Q. That was explained to you 19 that that was the number of other 20 examinees whose tests were analyzed and 21 compared with yours in terms of how many 22 percentage of exposed and how many 23 percentage of unexposed they got correct? 24 A. Okay.</p>
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<p>1 them right to add them into the regular 2 bank versus getting rid of them as 3 something that's not going to be a good 4 gauge. 5 So if you're not updating 6 your question bank regularly and you're 7 getting his set in 2008 and now you're 8 comparing me to 2007, not knowing what I 9 had access to, yeah, a lot more of my 10 questions may look like I was exposed, 11 but, in actuality, I never saw them 12 because when I was there I had less than 13 a thousand questions to work with. 14 Q. So it's a coincidence that 15 you performed significantly better on 16 those questions? 17 A. It could be, but the point 18 is the number of exposed may be very 19 much. You have to also understand that 20 I'm not -- I don't want to say I'm not 21 stupid, but I also have been studying for 22 the exam, so there is going to be basic 23 knowledge. Whether they were in his bank 24 or not, I would have known the answer to</p>	<p>1 Q. That was explained to you 2 before, right? 3 A. I don't know if it was 4 explained that exact way, but we did 5 touch upon the 1162. I remember that 6 from the transcript. 7 Q. You spent a lot of time 8 thinking about the fairness of this exam, 9 right? 10 A. Yes. 11 Q. And you know that among 12 1,162 other examinees, they got 75 13 percent of the exposed correct and 75 14 percent of the unexposed correct? 15 A. And every single time 16 there's a comparison group, there are 17 outliers. This is the average which 18 means you will have a bunch of people 19 well above 75/75, and you will have many 20 people well below 75/75. 21 So if you want to put me in 22 comparison of all 1,162 on a piece of 23 paper and show me, then I'll take that as 24 something that I can go with, but just</p>

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<p>1 giving me an average doesn't say anything</p> <p>2 to me because there may be many more</p> <p>3 people below me who did much more percent</p> <p>4 correct as my exposed and much less than</p> <p>5 my unexposed, and I guarantee you they</p> <p>6 weren't brought in for validity.</p> <p>7 Q. How can you guarantee?</p> <p>8 A. Well, I can say that because</p> <p>9 what I was told at my hearing is the</p> <p>10 reason I went to Optima is why I was</p> <p>11 brought in.</p> <p>12 Q. You were told that at your</p> <p>13 hearing?</p> <p>14 A. I was told that at the</p> <p>15 hearing.</p> <p>16 Q. So, Dr. Thomas, from what I</p> <p>17 hear what you're saying, you were</p> <p>18 presented with this, this piece of paper</p> <p>19 here, this analysis of your score as</p> <p>20 compared with 1,162 other people, but you</p> <p>21 do not accept this as a statistical</p> <p>22 analysis --</p> <p>23 A. I do not.</p> <p>24 Q. -- right?</p>	<p>1 A. I think, like I said,</p> <p>2 statistical analysis will take in all</p> <p>3 variables. Statistics in itself takes in</p> <p>4 all variables. This is just percentages</p> <p>5 given based on what you guys call a</p> <p>6 denominator and numerator.</p> <p>7 Q. What do you think the</p> <p>8 purpose is of the USMLE?</p> <p>9 A. It's to gauge whether or not</p> <p>10 students are -- have the right level to</p> <p>11 be a doctor.</p> <p>12 Q. And who do you think it's to</p> <p>13 determine -- strike that.</p> <p>14 When a person sits for the</p> <p>15 USMLE, whose job is it to verify that</p> <p>16 they are -- that their score is an</p> <p>17 accurate measure of their ability?</p> <p>18 A. I think the test itself. If</p> <p>19 you pass the test you should</p> <p>20 automatically -- it should be understood</p> <p>21 that that means you're ready to take the</p> <p>22 test -- you're ready to practice.</p> <p>23 Q. Doesn't that not account for</p> <p>24 all the variables?</p>
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<p>1 A. A complete statistical</p> <p>2 analysis.</p> <p>3 Q. So you do accept it as a</p> <p>4 statistical analysis, just not a complete</p> <p>5 statistical analysis?</p> <p>6 A. Well, statistics meaning</p> <p>7 you're taking a group of questions you</p> <p>8 say was exposed, comparing it to my exam</p> <p>9 so that's a percentage and then telling</p> <p>10 me what I got right and wrong on those</p> <p>11 questions.</p> <p>12 So do I accept that as being</p> <p>13 some kind of analysis, it's some kind</p> <p>14 of -- it's numbers, but I can't</p> <p>15 necessarily say that it takes all</p> <p>16 variables into account to be a true</p> <p>17 statistical analysis.</p> <p>18 Q. So from your viewpoint as a</p> <p>19 statistical analysis, this is a</p> <p>20 statistical analysis; it just doesn't</p> <p>21 take into account all the possible</p> <p>22 variables?</p> <p>23 A. I think this is math.</p> <p>24 Q. What's the difference?</p>	<p>1 A. Well, then if you go by</p> <p>2 that, I passed the test. You're taking</p> <p>3 this analysis or these numbers to say</p> <p>4 that it was not valid that I passed the</p> <p>5 test. I passed the test on the day I</p> <p>6 took it.</p> <p>7 You're trying to claim or</p> <p>8 NBME is trying to claim that because I</p> <p>9 went to Optima I had access to certain</p> <p>10 measures that they have yet to prove that</p> <p>11 I had access to as a reason to take that</p> <p>12 away from me.</p> <p>13 Q. Maybe you misunderstood my</p> <p>14 question. I'll ask it again.</p> <p>15 When you take the</p> <p>16 examination, whose job is it to determine</p> <p>17 whether or not that score is a valid</p> <p>18 measure of your ability?</p> <p>19 A. I'm not sure. I would</p> <p>20 assume whoever created the exam. That</p> <p>21 was all done before the exam was created.</p> <p>22 Q. And if the person whose</p> <p>23 responsibility it is to verify that your</p> <p>24 score is a valid measure of your ability</p>

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<p>1 does not believe for whatever reason that 2 that score is a valid measure of your 3 ability, then what is that person to do? 4 A. If a person believes that I 5 did not pass that exam legitimately, that 6 person has the ownership without a shadow 7 of a doubt to show and prove that I did 8 not. And at this point, nothing has been 9 shown without a shadow of a doubt because 10 I've clearly stated what I saw and what 11 you guys measured it against are not the 12 same. 13 Q. So you believe that the job 14 is -- of the test is to presume that 15 somebody who passes is prepared to 16 practice medicine? 17 A. I believe so, unless you 18 directly notice that they were cheating. 19 Q. How about a person who fails 20 that examination six times? 21 A. I believe if everyone -- if 22 they continue studying, especially if 23 they know the focus area, they can 24 eventually pass.</p>	<p>1 marked for identification as 2 Exhibit NO. 57.) 3 MS. HOLLAND: So, Dr. 4 Thomas, I want to remind you that 5 you are still under oath, and I 6 just want to put on the record 7 that in front of each of us, in 8 front of Dr. Thomas, myself and 9 Ms. McEnroe as well as the 10 stenographer we have a binder of 11 exhibits that are tabbed and 12 numbered 1 through 56. 13 In addition to those 14 exhibits, Dr. Thomas has brought 15 some items with him that we have 16 collectively labeled Exhibit 57 17 and will be using those numbers 18 for reference throughout the 19 deposition and have been using 20 those numbers throughout the 21 deposition to refer to different 22 documents. 23 THE WITNESS: Okay. 24 BY MS. HOLLAND:</p>
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<p>1 Q. So everyone eventually is 2 qualified to practice medicine? 3 A. You do not need to go to med 4 school to pass a medical school exam. If 5 you take out your Kaplan medical books 6 and study on your own, you can pass an 7 exam. It's like any other civil service 8 exam. The clinical aspect, that is 9 something you learn in the clinical 10 setting. So do I believe that anybody 11 continuously studying, studying, studying 12 eventually will pass an exam, I believe 13 so. 14 Q. And by your measure, in your 15 words, if someone passes the exam, 16 they're qualified to practice medicine? 17 A. I believe so. 18 Q. Okay. 19 MS. McENROE: Let's go off 20 the record. 21 (A discussion was held off 22 the record.) 23 (A lunch break was taken.) 24 (Whereupon, a document was</p>	<p>1 Q. With that in mind, Dr. 2 Thomas, could you turn with me to Exhibit 3 7? 4 A. (Witness complies with 5 request.) 6 Q. Do you recognize Exhibit 7? 7 A. Yes, I do. 8 Q. What is it? 9 A. It's an e-mail from Susan 10 Detich to myself. 11 Q. And I see on the to line it 12 says manu.thomas.31@gmail. Is that you? 13 A. That is me. 14 Q. Do you go by the name Manu? 15 A. Yes, I do. 16 Q. And this e-mail was sent by 17 Susan Detich to you on what date? 18 A. July 27, 2009. 19 Q. And turning to the next page 20 of Exhibit 7, do you recognize this part 21 of the document? 22 A. Yes, I do. 23 Q. What is it? 24 A. This is a letter sent from</p>

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<p>1 Susan Detich to myself.</p> <p>2 Q. On what date?</p> <p>3 A. July 27th, 2009.</p> <p>4 Q. And did you receive this</p> <p>5 letter?</p> <p>6 A. Yes, I did.</p> <p>7 Q. Now, that was on -- that was</p> <p>8 sent to you on July 27th, 2009. At that</p> <p>9 point you were registered to take Step 3.</p> <p>10 Is that right?</p> <p>11 A. I had registered for Step 3.</p> <p>12 My registration, I believe, was not</p> <p>13 completed because I received this letter.</p> <p>14 Q. And this letter basically</p> <p>15 informed you that your scores on the Step</p> <p>16 2 CK exam from December 31st, 2007 were</p> <p>17 under investigation?</p> <p>18 A. That is correct.</p> <p>19 Q. Turning with me to Exhibit</p> <p>20 8, please. Do you recognize this?</p> <p>21 A. This seems to be an e-mail</p> <p>22 from me to Ms. Detich in August.</p> <p>23 Q. And in this e-mail you</p> <p>24 acknowledge the receipt of the letter</p>	<p>1 conducted an investigation?</p> <p>2 A. No. No. At no time did I</p> <p>3 conduct an investigation.</p> <p>4 Q. And you ask in this letter</p> <p>5 about halfway down in this e-mail: At</p> <p>6 this time I would like to know what the</p> <p>7 specifics are of the root of your</p> <p>8 investigation.</p> <p>9 A. That's correct.</p> <p>10 Q. And you also say that you</p> <p>11 sat with the FBI for almost three hours</p> <p>12 in May 2008 regarding Optima and its</p> <p>13 business plan. You were as cooperative</p> <p>14 as you could be and you were already</p> <p>15 ECFMG certified.</p> <p>16 A. That is correct.</p> <p>17 Q. During that three-hour</p> <p>18 meeting with the FBI, what did they ask</p> <p>19 you?</p> <p>20 A. They asked me everything</p> <p>21 from the daily activities of the day,</p> <p>22 what students did from the time they got</p> <p>23 in 'til the time they left, what my</p> <p>24 function was on a daily basis. They</p>
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<p>1 from July 27th, 2009, correct?</p> <p>2 A. That is correct.</p> <p>3 Q. And then you have some</p> <p>4 questions regarding the allegations and</p> <p>5 your own investigation of the activities</p> <p>6 regarding NBME and Optima?</p> <p>7 A. Yes.</p> <p>8 Q. What was your own</p> <p>9 investigation?</p> <p>10 A. I believe I'm referring to</p> <p>11 the FBI, sitting with the FBI and then me</p> <p>12 given the timeline from which I had taken</p> <p>13 the exam at the appointed time where they</p> <p>14 finally told me there was a question with</p> <p>15 my examination.</p> <p>16 Q. So when you say my own</p> <p>17 investigation, you mean what you perceive</p> <p>18 to be an investigation into you and your</p> <p>19 conduct?</p> <p>20 A. Yeah. Investigation in the</p> <p>21 terms of my timeline of the activities</p> <p>22 that took place leading up to the letter</p> <p>23 that came in.</p> <p>24 Q. You don't mean that you</p>	<p>1 asked regarding the server, access to the</p> <p>2 server, where the IT specialist was who</p> <p>3 was handling the server. They asked me</p> <p>4 questions regarding the bank.</p> <p>5 Q. The question bank, you mean?</p> <p>6 A. The question bank. They</p> <p>7 asked me some background about Suliman,</p> <p>8 about how students came to know about the</p> <p>9 place, just all basic stuff. A lot of it</p> <p>10 was focused on the server and the</p> <p>11 questions.</p> <p>12 Q. Did they interview anyone</p> <p>13 else while you were there?</p> <p>14 A. I was not there when the FBI</p> <p>15 originally came. I was actually out on</p> <p>16 an interview in the city for a job. I</p> <p>17 got a call as I was leaving the interview</p> <p>18 to come back to the center.</p> <p>19 Q. Who called you?</p> <p>20 A. My girlfriend at the time</p> <p>21 called me.</p> <p>22 Q. So she was there as well?</p> <p>23 A. She was there at that time.</p> <p>24 Q. Was she an employee, too?</p>

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<p>1 A. No, she was not.</p> <p>2 Q. So you went back to the</p> <p>3 center. You answered the FBI's</p> <p>4 questions. Was anyone else being</p> <p>5 questioned during that time?</p> <p>6 A. When I got there, anyone</p> <p>7 they had questioned had already been</p> <p>8 done.</p> <p>9 Q. And do you know who else</p> <p>10 they questioned?</p> <p>11 A. I don't know if they</p> <p>12 formally questioned anyone or if they</p> <p>13 just randomly were talking to students,</p> <p>14 so I can't really say to who or what</p> <p>15 happened before I got there.</p> <p>16 Q. Is it fair to say that no</p> <p>17 one else was subjected to the kind of</p> <p>18 long-term extensive investigation or</p> <p>19 questioning as much as you were?</p> <p>20 A. Again, I don't know. I</p> <p>21 couldn't confirm that.</p> <p>22 Q. How many FBI agents were</p> <p>23 there involved in the raid?</p> <p>24 A. There was -- I don't know</p>	<p>1 to come in, they would have just come in</p> <p>2 through the front, I assume. The only</p> <p>3 locked door is really the one that goes</p> <p>4 into his office from the outside.</p> <p>5 Q. Suliman's office?</p> <p>6 A. Dr. Suliman's office.</p> <p>7 Otherwise, it's an open entrance going</p> <p>8 in. So I don't -- I didn't see anything</p> <p>9 broken, to tell you the truth. The</p> <p>10 server was out in the casing, and they</p> <p>11 were trying to break into that. That's</p> <p>12 probably the only thing I saw that may</p> <p>13 have been...</p> <p>14 Q. Can you tell me the name of</p> <p>15 the IT person from Optima?</p> <p>16 A. I know him as Adrian. He's</p> <p>17 from abroad.</p> <p>18 Q. Abroad where?</p> <p>19 A. I believe it's Romania, if</p> <p>20 I'm not mistaken.</p> <p>21 Q. Do you know his last name?</p> <p>22 A. I do not know his last name.</p> <p>23 Q. Did you have a cell phone</p> <p>24 number for him?</p>
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<p>1 how many were there at the beginning. I</p> <p>2 heard there were more there before I got</p> <p>3 there. When I got there I believe it was</p> <p>4 maybe less than five; one, maybe two</p> <p>5 talking to me and then there was a couple</p> <p>6 of IT FBI agents trying to get into the</p> <p>7 server.</p> <p>8 Q. Did they ask for your</p> <p>9 assistance in getting into the server?</p> <p>10 A. They asked me and I had</p> <p>11 nothing to offer because I had nothing to</p> <p>12 do with the server.</p> <p>13 Q. What about your IT person</p> <p>14 who was there?</p> <p>15 A. He wasn't to be found.</p> <p>16 Q. So when the FBI arrived at</p> <p>17 Optima, tell us what that was like. What</p> <p>18 happened?</p> <p>19 A. I wasn't there.</p> <p>20 Q. So when you did get there,</p> <p>21 were there any doors broken down?</p> <p>22 A. Not visibly that I could</p> <p>23 tell. The center is not locked during</p> <p>24 the day. It's wide open, so if they were</p>	<p>1 A. Well, he was visiting in the</p> <p>2 country at the time. He's not from the</p> <p>3 U.S. He's actually from abroad, so at</p> <p>4 that time I did have a local number that</p> <p>5 he was using temporarily.</p> <p>6 Q. Did you call it to help the</p> <p>7 FBI get him?</p> <p>8 A. I tried calling. No answer.</p> <p>9 Q. Turn with me, if you will,</p> <p>10 to Exhibit 9. This is a series of</p> <p>11 e-mails from August of 2009, and do you</p> <p>12 recognize these e-mails?</p> <p>13 A. This is her response to my</p> <p>14 response.</p> <p>15 Q. And do you see at the top</p> <p>16 there, that first e-mail sent August</p> <p>17 28th, 2009, 11:28 a.m. Who wrote that</p> <p>18 e-mail?</p> <p>19 A. That would be me.</p> <p>20 Q. And it says: I appreciate</p> <p>21 the quick reply and I look forward to</p> <p>22 hearing the results of the USMLE</p> <p>23 Committee on Score Validity and clearing</p> <p>24 my name of any suspicious indeterminate</p>

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<p>1 score or irregular behavior. I want to</p> <p>2 again state that I'm happy to prove that</p> <p>3 I have no affiliation with Optima</p> <p>4 University, its owner or its proprietary</p> <p>5 information.</p> <p>6 Do you see that?</p> <p>7 A. Uh-huh.</p> <p>8 Q. When you said that you had</p> <p>9 no affiliation with Optima University,</p> <p>10 you said that you were happy to prove</p> <p>11 that. What were you prepared to do to</p> <p>12 prove that?</p> <p>13 A. That I would show my history</p> <p>14 of not being there. The only time I was</p> <p>15 there was as a student as well as the</p> <p>16 time -- the short time that I had worked</p> <p>17 there.</p> <p>18 Q. And then later on that day</p> <p>19 Susan Detich writes to you from the NBME:</p> <p>20 Dr. Thomas, you will receive formal</p> <p>21 notification within the next week or so,</p> <p>22 and your performance on the December 2007</p> <p>23 Step 2 CK has been referred to the USMLE</p> <p>24 Committee on Score Validity.</p>	<p>1 enclosed policies and procedures. Is</p> <p>2 that right?</p> <p>3 A. At the very bottom, yes.</p> <p>4 Q. And I want you to flip with</p> <p>5 me to Exhibit 3 quickly. Are these the</p> <p>6 policies and procedures that were</p> <p>7 attached to that letter?</p> <p>8 A. I believe so.</p> <p>9 Q. Let's turn now to Exhibit</p> <p>10 11. Do you recognize this?</p> <p>11 A. Another e-mail from me to</p> <p>12 Ms. Detich.</p> <p>13 Q. And I notice that you signed</p> <p>14 your name Mathew Thomas, Jr., M.D., MHSA.</p> <p>15 What is MHSA?</p> <p>16 A. That's a master's in health</p> <p>17 service administration.</p> <p>18 Q. Where did you earn your</p> <p>19 master's in health services?</p> <p>20 A. Saint Joseph's College of</p> <p>21 Maine. That's what I was doing, the</p> <p>22 master's, when I was up in Maine for two</p> <p>23 semesters.</p> <p>24 Q. So that was before you went</p>
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<p>1 Turn with me, if you will,</p> <p>2 to Exhibit 10. Do you recognize the</p> <p>3 first page of Exhibit 10?</p> <p>4 A. This is an e-mail from Susan</p> <p>5 Detich to myself.</p> <p>6 Q. And how about the second</p> <p>7 page and the rest of the exhibit?</p> <p>8 A. This is the official -- this</p> <p>9 is the official letter that I received</p> <p>10 from Susan Detich which broke down my</p> <p>11 history with the exam as well as what</p> <p>12 they said was the calculations about</p> <p>13 exposed versus unexposed in my exam and</p> <p>14 then giving me the options. I believe</p> <p>15 they gave me the options at the end.</p> <p>16 Q. And how many pages is the</p> <p>17 letter that you were sent?</p> <p>18 A. This seems to be five.</p> <p>19 Q. Attached to this</p> <p>20 letter -- let me find the paragraph here.</p> <p>21 See at the bottom, it's a small number</p> <p>22 NBME 201?</p> <p>23 A. Yes.</p> <p>24 Q. It says, as explained in the</p>	<p>1 to medical school or after?</p> <p>2 A. No. That was concurrent</p> <p>3 with St. Matthew's University.</p> <p>4 Q. Let's turn to Exhibit 12.</p> <p>5 Again, do you recognize this?</p> <p>6 A. This is a letter from Susan</p> <p>7 Detich to myself and Janet Carson carbon</p> <p>8 copied on it.</p> <p>9 Q. And this is discussing your</p> <p>10 inability to open the pdfs and they're</p> <p>11 mailing them to you, right?</p> <p>12 A. That is correct.</p> <p>13 Q. Let's go to No. 13. No. 13,</p> <p>14 again, we have a series of e-mails. Do</p> <p>15 you recognize these e-mails?</p> <p>16 A. Yeah. This is in response</p> <p>17 to Susan Detich's e-mail regarding the</p> <p>18 pdfs not being able to be opened.</p> <p>19 Q. And you indicate that she</p> <p>20 can mail the -- FedEx the documents to</p> <p>21 your parents' house?</p> <p>22 A. That's correct.</p> <p>23 Q. And that's the same address</p> <p>24 that you live at now, right?</p>

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<p>1 A. That is correct.</p> <p>2 Q. Do your parents still live</p> <p>3 there?</p> <p>4 A. Yes, they do.</p> <p>5 Q. So your parents and your</p> <p>6 wife and kids live there?</p> <p>7 A. Now, yeah.</p> <p>8 Q. Let's turn to Exhibit 14.</p> <p>9 And this is a FedEx tracking slip. Do</p> <p>10 you notice the recipient information</p> <p>11 about halfway down?</p> <p>12 A. To myself.</p> <p>13 Q. Let's turn to 15. Exhibit</p> <p>14 15 is also a series of e-mails. Do you</p> <p>15 recognize them?</p> <p>16 A. Yes. This is, again, my</p> <p>17 response to Susan Detich after she said</p> <p>18 she's going to mail me the -- Federal</p> <p>19 Express the letter to me.</p> <p>20 Q. And you write to Susan</p> <p>21 Detich: I'm in receipt of the FedEx</p> <p>22 package today with the accusations</p> <p>23 against me and the validity of my Step 2</p> <p>24 score. It will be my pleasure to defend</p>	<p>1 deadline for submission of written</p> <p>2 materials and/or notification that you</p> <p>3 wish to appear in person is November 6th,</p> <p>4 2009.</p> <p>5 A. That is correct.</p> <p>6 Q. Let's go to 17, and this is</p> <p>7 an e-mail in which you say: Thank you.</p> <p>8 I will notify you on a timely basis.</p> <p>9 Is that right?</p> <p>10 A. That's correct.</p> <p>11 Q. Let's go to 18. So for No.</p> <p>12 18, reading it from the bottom to the</p> <p>13 top, on October 12th, 2009, 9:32 p.m.,</p> <p>14 you are writing with regard to the</p> <p>15 analysis that was provided to you. Is</p> <p>16 that right?</p> <p>17 A. Yes.</p> <p>18 Q. And you say: As per the</p> <p>19 letter sent to me dated September 15th,</p> <p>20 2009, it was stated that 32 percent of</p> <p>21 test items that appeared on the Step 2 CK</p> <p>22 form taken by me in December 2007 and</p> <p>23 that was used in, quote -- I'm sorry,</p> <p>24 that was, quote, used in scoring the</p>
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<p>1 my stance on the validity of my score as</p> <p>2 I still stand steadfast on my original</p> <p>3 letter to you.</p> <p>4 A. That's correct.</p> <p>5 Q. In the second paragraph you</p> <p>6 write: Unfortunately, as I mentioned in</p> <p>7 the previous e-mail, I am supposed to go</p> <p>8 abroad, and I'm unsure if I can make the</p> <p>9 October 14th date.</p> <p>10 What were you going abroad</p> <p>11 for? Do you remember?</p> <p>12 A. 2009, I do not remember, to</p> <p>13 tell you the honest truth.</p> <p>14 Q. Let's turn to 16. This is</p> <p>15 an e-mail, an e-mail string. You see the</p> <p>16 first e-mail there --</p> <p>17 A. Yes.</p> <p>18 Q. -- from Susan Detich?</p> <p>19 Is that an e-mail that you</p> <p>20 received?</p> <p>21 A. Yes, it is.</p> <p>22 Q. So it says: Dear Dr.</p> <p>23 Thomas, I have rescheduled this matter</p> <p>24 for review on December 16th, 2009. The</p>	<p>1 form, end quote, may have been subject to</p> <p>2 unauthorized reproduction and</p> <p>3 dissemination through Optima prior to my</p> <p>4 exam date.</p> <p>5 Then you ask for the number</p> <p>6 of total questions that were used in</p> <p>7 grading the exam. Is that right?</p> <p>8 A. That's correct.</p> <p>9 Q. And then at the top of -- at</p> <p>10 the top of the e-mails Susan Detich</p> <p>11 writes back to you: Dear Dr. Thomas, my</p> <p>12 sincere apologies for my delay in</p> <p>13 responding to your earlier e-mail</p> <p>14 inquiries. 288 of the items from the</p> <p>15 exam that was taken by you were scored.</p> <p>16 And then she says: Because</p> <p>17 I did not respond more promptly to your</p> <p>18 requests, the deadline for your</p> <p>19 submission of any written information</p> <p>20 will be extended until December 4th,</p> <p>21 2009?</p> <p>22 Is that right?</p> <p>23 A. That's correct.</p> <p>24 Q. So at that point, November</p>

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<p>1 11th, 2009, you knew how many of the test</p> <p>2 items were scored?</p> <p>3 A. That's correct.</p> <p>4 Q. Exhibit 19, this appears to</p> <p>5 be an e-mail scheduling your review with</p> <p>6 the Committee on Score Validity. Is that</p> <p>7 right?</p> <p>8 A. That's correct.</p> <p>9 Q. And it just states that the</p> <p>10 date for your review will be December</p> <p>11 16th, 2009?</p> <p>12 A. Excuse me?</p> <p>13 Q. December 16th, 2009 is the</p> <p>14 date?</p> <p>15 A. That's correct.</p> <p>16 Q. About the middle of that</p> <p>17 page there you write: Ms. Carson, what</p> <p>18 are the committee dates and times</p> <p>19 available in December, and can I schedule</p> <p>20 a phone conversation with you at some</p> <p>21 point off the record, if possible?</p> <p>22 What was your hope to</p> <p>23 discuss off the record with Ms. Carson?</p> <p>24 A. I think I just wanted to</p>	<p>1 your appearance before the USMLE's</p> <p>2 Committee on Score Validity?</p> <p>3 A. Yes.</p> <p>4 Q. Around the time that the</p> <p>5 Committee on Score Validity appearance</p> <p>6 was being scheduled, do you remember</p> <p>7 having a phone call with Ms. Carson?</p> <p>8 A. A phone call with Ms. Carson</p> <p>9 regarding...?</p> <p>10 Q. Do you remember speaking to</p> <p>11 Ms. Carson on the phone?</p> <p>12 A. I don't remember. I've had</p> <p>13 conversations on the phone with her. I</p> <p>14 don't remember if it was around the time</p> <p>15 of the actual committee hearing.</p> <p>16 Q. Do you remember actually</p> <p>17 calling Ms. Carson not only on the work</p> <p>18 phone but also on her home phone?</p> <p>19 A. I called back the number she</p> <p>20 had called me from. I didn't know what</p> <p>21 number that was.</p> <p>22 Q. So Exhibit 21, do you</p> <p>23 recognize Exhibit 21?</p> <p>24 A. This is the transcript from</p>
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<p>1 find out exactly what it is that they</p> <p>2 were looking for, and I think part of me</p> <p>3 wanted to know whether or not they were</p> <p>4 trying to find out all the students who</p> <p>5 went there, but she never brought it up</p> <p>6 so I never brought it up.</p> <p>7 Q. So you were worried that</p> <p>8 they were going to use your appearance</p> <p>9 before the Committee on Score Validity to</p> <p>10 find out more information about Optima?</p> <p>11 A. Well, I knew they'd probably</p> <p>12 bring up Optima. I was under the</p> <p>13 impression that Optima questions would</p> <p>14 come up.</p> <p>15 Q. Were you surprised when more</p> <p>16 Optima questions didn't come up?</p> <p>17 A. No. I wasn't surprised</p> <p>18 either way.</p> <p>19 Q. Let's go to Exhibit 20. So</p> <p>20 this exhibit contains two e-mails that</p> <p>21 appear to be the same e-mail from Ms.</p> <p>22 Babcox, B-A-B-C-O-X?</p> <p>23 A. That's correct.</p> <p>24 Q. And that's just scheduling</p>	<p>1 my hearing.</p> <p>2 Q. Dr. Thomas, you indicated a</p> <p>3 few times earlier that throughout the</p> <p>4 Committee on Score Validity meeting, Ms.</p> <p>5 Carson referred to the analysis that was</p> <p>6 provided to you as an observation as</p> <p>7 opposed to an analysis?</p> <p>8 A. No. I stated that she had</p> <p>9 told me in prior conversations that it</p> <p>10 was an observation, not an analysis. She</p> <p>11 did not say it within this hearing, but</p> <p>12 she did not rebut.</p> <p>13 Q. She did not rebut what?</p> <p>14 A. That I claimed that she</p> <p>15 called it an observation.</p> <p>16 Q. Can you show me in this</p> <p>17 hearing where you said that it was an</p> <p>18 observation -- where you say that she</p> <p>19 said it was an observation?</p> <p>20 A. Sure.</p> <p>21 Q. Maybe if I can help, Dr.</p> <p>22 Thomas, if you look at small page 16,</p> <p>23 line 12?</p> <p>24 A. Yes. That's exactly where</p>

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<p>1 it is.</p> <p>2 Q. So you say -- I'm just going</p> <p>3 to start at the top of that paragraph</p> <p>4 with line 1. "Ms. Carson, if I could get</p> <p>5 some kind of" -- this is your recalling a</p> <p>6 prior conversation?</p> <p>7 A. Yes.</p> <p>8 Q. "Ms. Carson, if I could get</p> <p>9 some kind of statistical analysis to show</p> <p>10 what the question basis was. That was a</p> <p>11 big major thing to me. For me, I'm here</p> <p>12 at a hearing with the court reporter. I</p> <p>13 was allowed to have counsel. I'm being</p> <p>14 sworn under oath, and I said give me some</p> <p>15 discovery as to the data against me so</p> <p>16 that I can see what you're going by. And</p> <p>17 she said to me, and quote if I'm wrong,</p> <p>18 she said that this is not a statistical</p> <p>19 analysis, this is an observation.</p> <p>20 These are observations made</p> <p>21 by individuals in the National Board. I</p> <p>22 asked her for their qualifications. She</p> <p>23 said, we don't check their CVs. I said,</p> <p>24 let me get information for the board.</p>	<p>1 Q. Now, you're basing your</p> <p>2 position that that was an observation on</p> <p>3 the fact that Ms. Carson called it an</p> <p>4 observation?</p> <p>5 A. She was very adamant that it</p> <p>6 was an observation.</p> <p>7 Q. If she had said that it was</p> <p>8 a statistical analysis, would it have</p> <p>9 been a statistical analysis?</p> <p>10 A. No. Then I would have</p> <p>11 expected her to tell me who did the</p> <p>12 statistical analysis and move from there.</p> <p>13 Q. So the fact that she said</p> <p>14 that it was an observation was not</p> <p>15 important?</p> <p>16 A. It was important considering</p> <p>17 she's a secretary speaking on behalf of</p> <p>18 the NBME and anything she says basically</p> <p>19 would be her speaking for them.</p> <p>20 Q. So moving onto Exhibit 22.</p> <p>21 This is an e-mail from Susan Detich to</p> <p>22 you. Is that right?</p> <p>23 A. That's correct.</p> <p>24 Q. And she says: The committee</p>
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<p>1 I'll contact them to find out their</p> <p>2 qualifications, and she says, we're not</p> <p>3 going to give that information to you."</p> <p>4 And then you later say:</p> <p>5 "For me, if you had stratified and told</p> <p>6 me, well, you know what, on the exposed</p> <p>7 versus the unexposed, medicine, OB-GYN,</p> <p>8 surgery, peds and psych, these are the</p> <p>9 types of questions, and by far everything</p> <p>10 is equal across-the-board --</p> <p>11 across-the-board you -- you had scored</p> <p>12 lower or higher, I could see."</p> <p>13 Do you see that?</p> <p>14 A. Yes, I do.</p> <p>15 Q. So your recollection was</p> <p>16 that you told the Committee on Score</p> <p>17 Validity that Ms. Carson had told you</p> <p>18 that it was an observation --</p> <p>19 A. Yes, it was.</p> <p>20 Q. -- right?</p> <p>21 And your recollection is</p> <p>22 correct because I just read that from the</p> <p>23 transcript, right?</p> <p>24 A. Yes.</p>	<p>1 found it could not certify the validity</p> <p>2 of your Step 2 CK scores and has deemed</p> <p>3 them indeterminate unless and until you</p> <p>4 pass a validating exam, right?</p> <p>5 A. That's correct.</p> <p>6 Q. And then she goes on to say:</p> <p>7 Once you receive the committee's formal</p> <p>8 decision letter, you will have six months</p> <p>9 during which you may take the validating</p> <p>10 exam. Is that right?</p> <p>11 A. That is correct.</p> <p>12 Q. Let's go to Exhibit 23. You</p> <p>13 write: Please send all documents to the</p> <p>14 PO Box. I will most likely appeal.</p> <p>15 Please realize that I will be out of the</p> <p>16 country possibly until February 10th.</p> <p>17 Please schedule me for the next appeal</p> <p>18 committee date.</p> <p>19 Now, at that point -- what</p> <p>20 was the appeal committee that you were</p> <p>21 hoping to appear before?</p> <p>22 A. Well, I didn't realize at</p> <p>23 that point that the appeal committee is</p> <p>24 not an in-person committee. I was under</p>

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<p>1 the impression it would be similar to the</p> <p>2 other committee but possibly with other</p> <p>3 people at a higher level.</p> <p>4 Q. I see. Okay.</p> <p>5 So Exhibit 24, do you</p> <p>6 recognize this exhibit?</p> <p>7 A. Yes. This is the -- I</p> <p>8 believe the verdict that the Committee on</p> <p>9 Score Validity came up with after my</p> <p>10 hearing in December.</p> <p>11 Q. Well, this is actually a</p> <p>12 letter, right?</p> <p>13 A. A letter, yes, stating their</p> <p>14 stance.</p> <p>15 Q. And how many pages is this</p> <p>16 letter?</p> <p>17 A. It says four.</p> <p>18 Q. Four pages, and about midway</p> <p>19 through the first page it says: During</p> <p>20 the course of its deliberations the</p> <p>21 committee discussed the following.</p> <p>22 A. Yes.</p> <p>23 Q. There are, I think, one,</p> <p>24 two, three, four, five, six, seven,</p>	<p>1 on those two sets of items. Is that</p> <p>2 right?</p> <p>3 A. That's what's written here.</p> <p>4 Q. In the next bullet point it</p> <p>5 talks about the fact that on items that</p> <p>6 were believed to have been exposed, you</p> <p>7 spent an average of 59 seconds whereas on</p> <p>8 items that were not believed to have been</p> <p>9 exposed, you spent an average of 73</p> <p>10 seconds?</p> <p>11 A. That's what's written, yes.</p> <p>12 Q. And, again, it talks about</p> <p>13 the comparison group which spent an</p> <p>14 average of 73 seconds on exposed and 76</p> <p>15 seconds on nonexposed items. Is that</p> <p>16 right?</p> <p>17 A. Yeah. That's what's written</p> <p>18 here.</p> <p>19 Q. The next bullet point</p> <p>20 discusses the fact that the committee</p> <p>21 took into account your personal</p> <p>22 appearance and the things that you stated</p> <p>23 and testified to in front of that</p> <p>24 committee and that they took into</p>
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<p>1 eight -- eight bullet points of pieces of</p> <p>2 information that the committee</p> <p>3 considered?</p> <p>4 A. Yes.</p> <p>5 Q. And among those eight bullet</p> <p>6 points, the letter discusses that 32</p> <p>7 percent of the test items that appeared</p> <p>8 on the Step 2 CK form taken by you in</p> <p>9 December 2007 and that were used in</p> <p>10 scoring that form may have been subject</p> <p>11 to unauthorized reproduction and</p> <p>12 dissemination through Optima.</p> <p>13 A. May have been.</p> <p>14 Q. Right. And the next part</p> <p>15 says: Your percent score on those scored</p> <p>16 items believed to have been exposed was</p> <p>17 higher than your percent scored correct</p> <p>18 on items for which there is no current</p> <p>19 evidence of exposure, right?</p> <p>20 A. That's what's written.</p> <p>21 Q. And it says: The average</p> <p>22 performance of a comparison group of</p> <p>23 other examinees who took the same form</p> <p>24 shows greater consistency in performance</p>	<p>1 account. Is that right?</p> <p>2 A. That's correct.</p> <p>3 Q. And then the last eight</p> <p>4 paragraphs of the letter talk about the</p> <p>5 committee's decision and their</p> <p>6 consideration of all the information</p> <p>7 available to them and their decision not</p> <p>8 to certify the validity of your passing</p> <p>9 result. Is that right?</p> <p>10 A. That's correct.</p> <p>11 Q. Now, also, in this letter,</p> <p>12 the committee discusses the procedure of</p> <p>13 taking a validating exam?</p> <p>14 A. Yes.</p> <p>15 Q. When did you take that</p> <p>16 validating exam? Do you remember?</p> <p>17 A. I believe September 2011.</p> <p>18 Q. And what did you do to</p> <p>19 prepare for the validating exam?</p> <p>20 A. Much the same, looked at</p> <p>21 some question banks, some old notes,</p> <p>22 books but nothing as intense as I had</p> <p>23 what I was studying for in 2007.</p> <p>24 Q. Did you utilize the services</p>

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<p>1 of Optima to study for the validating 2 exam? 3 A. No, I did not. 4 Q. Why not? 5 A. It was closed. 6 Q. Exhibit 25 is an e-mail 7 saying: Please put me on the calendar 8 for the appeal. Is that sent by you? 9 A. Yes, it is. 10 Q. Exhibit 26. In Exhibit 11 26 -- this is a string of e-mails -- you 12 are asking Susan Detich if it's possible 13 to get an extension on the appeal 14 process. You write: I was distracted 15 with some issues and thought best to 16 inquire. 17 What was going on at that 18 point? 19 A. I don't exactly remember. 20 Actually, that might have been around the 21 time from the arrest and everything 22 related to that. 23 Q. And then Ms. Detich 24 writes -- or had written previous:</p>	<p>1 A. Okay. 2 Q. No. 27, Exhibit 27 is also a 3 series of e-mails, and in Exhibit 27 on 4 May 25th, 2010, this was an e-mail from 5 Emilie Babcox to Janet Carson and Susan 6 Detich, so you were not a party to this 7 e-mail, right? 8 A. No. 9 Q. But I am going to ask you 10 whether you remember leaving a voicemail 11 for Emilie Babcox that there was a death 12 in your family and that you'd like to 13 postpone your appeal? 14 A. Most likely, I did. 15 Q. And you also left a 16 different e-mail address to use than the 17 one that you had been using with the 18 committee before? 19 A. That's correct. 20 Q. Why did you change your 21 e-mail address at that point? 22 A. I don't know. 23 Q. Let's go to No. 28. Do you 24 recognize Exhibit 28?</p>
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<p>1 Information on the appeal process. The 2 appeal is a review of the written record 3 so your appeal would consist of the 4 following: All of the materials reviewed 5 by the Committee on Score Validity, the 6 stenographic record of your personal 7 appearance, the committee's decision 8 letter and your own written appeal. 9 A. That's correct. May I just 10 ask why this says redacted and what that 11 means? 12 Q. Redacted means that there's 13 information from this document that was 14 removed from it. 15 A. For any specific reason? 16 Q. In this case, the portion of 17 the information that was redacted was the 18 information that was forwarded to me. 19 Like, in other words, just the headers of 20 the e-mail. 21 A. I understand. Okay. 22 Q. Just for ease of reading so 23 that everyone can tell when it was 24 originally sent.</p>	<p>1 A. This was my appeal that I 2 submitted. 3 Q. So you wrote this document? 4 A. Yes, I did. 5 Q. Go to the last page with me, 6 if you would? 7 A. (Witness complies with 8 request.) 9 Q. Do you see a date on this? 10 A. June 24th, 2010. 11 Q. Is that the date that you 12 submitted it? 13 A. Yes. 14 Q. And did you submit this as 15 part of your appeal? 16 A. Yes. 17 Q. That was your intention in 18 submitting this letter? 19 A. This was number four on the 20 list that Susan Detich had said would go 21 towards the committee. 22 Q. Let's go to 29. So do you 23 recognize Exhibit 29? 24 A. This is the letter that came</p>

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<p>1 back after my appeal was submitted, their 2 decision not to overturn the original 3 decision against my exam validity. 4 Q. And at the end of this 5 letter, on the page that's numbered NBME 6 124, it says at the bottom: Upon full 7 consideration of all of the information 8 available, the Composite Committee found 9 that the Committee on Score Validity 10 acted in compliance with applicable USMLE 11 policies and procedures and did not make 12 a decision that was clearly contrary to 13 the weight of the evidence before it. 14 Therefore, the Composite 15 Committee concluded that the 16 determination of the Committee on Score 17 Validity will stand. Your Step 2 CK 18 scores remain classified as 19 indeterminate. 20 That wasn't the final step, 21 though, in the process, was it? 22 A. For who? 23 Q. For you? 24 A. No.</p>	<p>1 A. That's correct. 2 Q. Thirty-two, about midway 3 through the first page you write: Ms. 4 Buono, I would like to know how to obtain 5 an extension to my February 25th, 2011 6 validating exam deadline. I have had 7 many personal issues and will not be 8 prepared by then. Other students have 9 gone well past the six-month period, and 10 I would like the same courtesy extended 11 to me. Please advise. 12 A. That is correct. 13 Q. I have a few questions about 14 that. 15 A. Sure. 16 Q. What were the many personal 17 issues that you had? 18 A. I don't remember exactly 19 what they were. 20 Q. And when you said other 21 students have gone well past the 22 six-month period and you would like the 23 same courtesy extended to you, what other 24 students were you referring to?</p>
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<p>1 Q. The next paragraph says: 2 The Step 2 CK validating examination 3 further discussed in Ms. Detich's letter 4 to you of February 17th, 2010 must be 5 taken within six months of the date of 6 this letter; i.e., on or before February 7 25th, 2011. 8 You did have until February 9 25th, 2011 to take the validating exam, 10 right? 11 A. Yes, I did. 12 Q. We've been over Exhibit 30, 13 so I think we can go to 31. In No. 31, 14 this is an e-mail from Amy Buono to you. 15 Is that correct? 16 A. That's correct. 17 Q. And she says: Dear Dr. 18 Thomas, please let me know what 19 three-month eligibility period you would 20 like that would allow you to schedule 21 your exam prior to the February 25th, 22 2011 validating exam deadline. I will 23 then request a scheduling permit be 24 generated and sent to you via e-mail.</p>	<p>1 A. I don't remember exact 2 names, but there were students that had 3 taken the exam well after the six months. 4 Q. And in response to your 5 request for an extension, at the top of 6 this page, first page of Exhibit 32, Amy 7 Buono writes back: Dear Dr. Thomas, the 8 USMLE Composite Committee has given 9 permission to allow you the option of 10 taking your validating exam up to one 11 full year after the date on the decision 12 letter. That letter was dated August 13 25th, 2010. Therefore, you have until 14 August 24th, 2011 to test. And then 15 again she says: Please let me know what 16 three-month eligibility period you would 17 like. 18 A. That's correct. 19 Q. Thirty-three. In this 20 e-mail Amy Buono says: Dear Mat, please 21 try to give plenty of notice of your 22 intended eligibility period as during 23 busy times it may take a while for the 24 permit to be generated.</p>

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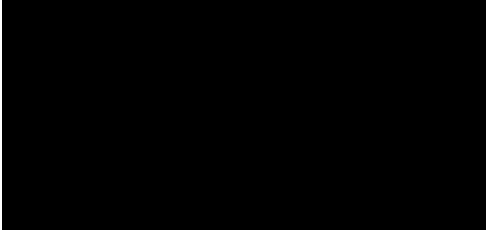
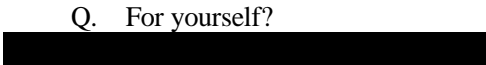

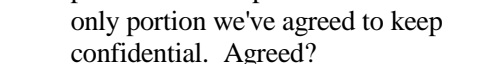
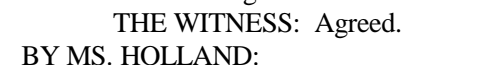
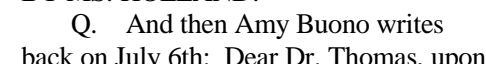
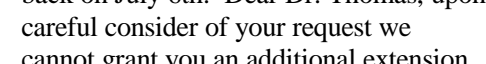
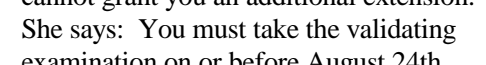
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1 A. Correct.  
 2 Q. Exhibit 34, Amy Buono  
 3 says -- I'm sorry, midway through the  
 4 page, June 27th, 2011 so about a month  
 5 and a half before your deadline for  
 6 validation you write: Amy, as I approach  
 7 my deadline I need to be registered for  
 8 an exam date. I am going through some  
 9 medical issues right now. What happens  
 10 if surgery or treatment doesn't allow me  
 11 to take the exam in time? Mat.  
 12 What were the medical issues  
 13 you were going through?  
 14 A. Does that stay confidential?  
 15 MS. McENROE: Let's go off  
 16 the record.  
 17 (A discussion was held off  
 18 the record.)  
 19 BY MS. HOLLAND:  
 20 Q. Just confirming, Dr. Thomas,  
 21 that your answer to the following  
 22 question will be kept confidential.  
 23 What were the medical issues  
 24 that you were going through at that time?

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1 validating exam on or before August 24th,  
 2 2011 and wish to test after that date,  
 3 you may follow the standard registration  
 4 instructions for Step 2 CK as noted on  
 5 the ECFMG website.  
 6 A. That's correct.  
 7 Q. No. 35. You respond to that  
 8 e-mail on July 6th by saying: I  
 9 appreciate the response. Please start  
 10 the process so I can reserve a test date.  
 11 And she writes back: Dear  
 12 Dr. Thomas, please tell me which  
 13 three-month eligibility period you would  
 14 like so I may order your validating exam  
 15 scheduling permit.  
 16 A. That's correct.  
 17 Q. No. 36, you respond: Since  
 18 I have to take it by August 24th, 2011,  
 19 it has to be July, August, September.  
 20 And then Ms. Buono writes  
 21 back: I will place the order for your  
 22 permit. As soon as it's available I will  
 23 send it to you via e-mail.  
 24 A. That's correct.

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 2   
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 8 Q. For yourself?  
 9   
 10 MS. McENROE: So those  
 11 previous two responses are the  
 12 only portion we've agreed to keep  
 13 confidential. Agreed?  
 14 THE WITNESS: Agreed.  
 15 BY MS. HOLLAND:  
 16 Q. And then Amy Buono writes  
 17 back on July 6th: Dear Dr. Thomas, upon  
 18 careful consider of your request we  
 19 cannot grant you an additional extension.  
 20 She says: You must take the validating  
 21 examination on or before August 24th,  
 22 2011.  
 23 And then she says: If for  
 24 any reason you do not take your

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1 Q. No. 37 we can skip. No. 38  
 2 we can skip. No. 39, you wrote back and  
 3 said -- on July 19th, 2011 you wrote:  
 4 Amy, my final date to take the exam is  
 5 coming on one month. I need that permit  
 6 to get a spot on the last possible day.  
 7 Please advise on how long it will take.  
 8 And Amy Buono writes back: I will check  
 9 into it.  
 10 Then you write back to her:  
 11 Good afternoon, Amy. I am now under one  
 12 month from when I have to take my exam,  
 13 and I still don't have a testing permit.  
 14 Please advise.  
 15 And she indicates that she's  
 16 unsure what's causing the delay and will  
 17 check on it again for you.  
 18 A. That's correct.  
 19 Q. Now, what was your reason  
 20 for requesting a permit on the last  
 21 possible day?  
 22 A. Well, given all the issues I  
 23 was going through medically, I knew that  
 24 I needed every last day which is why I

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<p>1 originally asked for an extension of any 2 kind.</p> <p>3 Q. Turning to No. 40. On 4 August 2nd, 2011 Amy Buono says: Your 5 Step 2 CK validating exam scheduling 6 permit is attached. Again, my apologies 7 for the delay. As you are aware, 8 although the permit doesn't expire until 9 September 30th, you must test on or 10 before August 24th, 2011.</p> <p>11 And then you write back: 12 Amy, thanks. What happens if I can't get 13 a date on the 24th? Amy Buono writes: 14 If you have difficulty scheduling a test 15 date on or before the 24th, let me know 16 as soon as possible. Also, let me know 17 what area/test centers you are trying to 18 test in. Thanks, Amy.</p> <p>19 A. That's correct.</p> <p>20 Q. Forty-one, midway down the 21 page there you write: Amy, I checked for 22 locations near my current ZIP code and my 23 parents' ZIP code. None of the centers 24 have August 24th. The only</p>	<p>1 causing me not to be able to get a date 2 on the last possible date. If I move the 3 dates up, I feel I won't be ready and 4 given all the events that got me to this 5 point, I can't risk that.</p> <p>6 And then you ask what it 7 means when the committee says the score 8 is indeterminate. Will there be an 9 asterisk? And Amy writes back that there 10 are dates that are available and that no 11 score is reported in the event of an 12 indeterminate score.</p> <p>13 A. That's correct.</p> <p>14 Q. Forty-three, on August 7th 15 you write to Amy Buono: Amy, can you 16 please clarify something for me? I took 17 my exam on December 31st, 2007. If I'm 18 not mistaken, the passing score has 19 increased since then. I need to pass to 20 validate my exam. Does that mean I need 21 to get the pass score from December 31st, 22 2007 or the new standard?</p> <p>23 And she writes back: The 24 passing standard that existed at the time</p>
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<p>1 available -- the ones available are 2 either September or next week. This is 3 why I wanted the permit earlier. Please 4 advise.</p> <p>5 She writes back: Hi, Mat. 6 I requested information on the test dates 7 and centers near the ZIP code you listed. 8 I know you would prefer to test as close 9 to the 24th as possible, but Prometric 10 cannot always accommodate the exact test 11 date an examinee is hoping for.</p> <p>12 I was able to find the 13 following test dates and locations that 14 are convenient to your ZIP code and lists 15 a few different, one, two -- five 16 different test options for you.</p> <p>17 A. Correct.</p> <p>18 Q. Forty-two, the bottom of the 19 first page, August 3rd you write that 20 there are medical issues that you're 21 dealing with. There's no way that you 22 can cut down on the days allowed to the 23 dates that were offered.</p> <p>24 You write: That delay is</p>	<p>1 you sat in 2007 is the one that will be 2 applied to you toward your validating 3 exam.</p> <p>4 A. That's correct.</p> <p>5 Q. Forty-four, August 17th, 6 bottom of the page: Amy, my aunt passed 7 yesterday, August 16th, 2011. You wanted 8 to know if you can get a one-week 9 extension for your exam date.</p> <p>10 At the top of the page you 11 write: Amy, I e-mailed with an extension 12 due to -- extension request due to a 13 death in the family, but I have not heard 14 any response as of yet, and then you give 15 the name of your aunt and the funeral 16 home where the funeral was.</p> <p>17 A. That's correct.</p> <p>18 Q. Had Amy asked for that 19 information or was that just something --</p> <p>20 A. I think I just offered to 21 show that it wasn't me just making up 22 stuff.</p> <p>23 Q. No. 45, in the middle of the 24 page Amy writes back she was out sick the</p>

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<p>1 past two days. She's sorry to hear about</p> <p>2 your aunt, and she will grant you an</p> <p>3 extension of one week.</p> <p>4 A. That's correct.</p> <p>5 Q. And then you write at the</p> <p>6 top of the page: I will take it by</p> <p>7 August 31st.</p> <p>8 A. That's correct.</p> <p>9 Q. No. 46, middle of the page:</p> <p>10 Amy, is there a way to get exempt from</p> <p>11 the Prometric change fee, \$117?</p> <p>12 And at the top of the page</p> <p>13 Amy Buono says: Dear Mat, I'm sorry. I</p> <p>14 cannot waive a Prometric fee. However, I</p> <p>15 would encourage you to let them know that</p> <p>16 you're changing your test date due to a</p> <p>17 death in the family. Perhaps they will</p> <p>18 make an exception. I do not know, but it</p> <p>19 wouldn't hurt to ask.</p> <p>20 A. Correct.</p> <p>21 Q. Forty-seven, you write: I</p> <p>22 appreciate the feedback. I'm up every</p> <p>23 night looking for a date. I may have to</p> <p>24 fly out west to get one so saving that</p>	<p>1 bottom?</p> <p>2 Q. Thirteen. Do you recognize</p> <p>3 this document?</p> <p>4 A. I saw it for the first time</p> <p>5 when I was given the documentation in</p> <p>6 discovery from NBME.</p> <p>7 Q. Have you read it?</p> <p>8 A. I have.</p> <p>9 Q. And this is a comparison of</p> <p>10 your Step 2 CK validation versus your</p> <p>11 Step 2 CK indeterminate test, right?</p> <p>12 A. That's correct.</p> <p>13 Q. And the conclusion is that</p> <p>14 the examinations were substantially the</p> <p>15 same. Is that right?</p> <p>16 A. That's his conclusion.</p> <p>17 Q. Do you accept that</p> <p>18 conclusion?</p> <p>19 A. Not entirely.</p> <p>20 Q. Why not?</p> <p>21 A. One of the biggest issues</p> <p>22 that I have is his media questions. I</p> <p>23 think he specifically says on page NBME</p> <p>24 00014, third paragraph down, number of</p>
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<p>1 fee is big.</p> <p>2 A. Yes.</p> <p>3 Q. No. 48, middle of the page</p> <p>4 you write: Amy, I have a date available</p> <p>5 to me on September 3rd. Can I get the</p> <p>6 approval to book it? If not, I will try</p> <p>7 every day for a date by the 31st.</p> <p>8 So you were unable to find a</p> <p>9 test date by August 31st?</p> <p>10 A. Yeah. Once you get that</p> <p>11 close with Prometric, especially at the</p> <p>12 end of the month people are ending their</p> <p>13 eligibility period, everything gets</p> <p>14 booked up.</p> <p>15 Q. And Amy Buono says: The 3rd</p> <p>16 will be fine. If you are unable to find</p> <p>17 anything else, book it immediately.</p> <p>18 We'll skip No. 50.</p> <p>19 Actually, No. 50, let's go to the third</p> <p>20 page of No. 50. And at the bottom it has</p> <p>21 a small number NBME 13.</p> <p>22 A. You mean of 49?</p> <p>23 Q. Of 49. I'm sorry.</p> <p>24 A. What page number at the</p>	<p>1 items with pictures increased as well.</p> <p>2 In 2007, 14 of the 288, 4.9 percent, had</p> <p>3 associated pictures, CT exams, x-rays,</p> <p>4 electrocardiograms. The 2011 examination</p> <p>5 had 25 pictures, 8.9 percent. He writes</p> <p>6 that one would expect the images to</p> <p>7 increase on a medicine certifying</p> <p>8 examination to keep pace with technology</p> <p>9 and advances in assessment.</p> <p>10 My issue is that when I was</p> <p>11 told that I would take a validation, they</p> <p>12 said it would be comparable to 2007. In</p> <p>13 2007 we did not have as many media, and</p> <p>14 they changed a lot of media type of</p> <p>15 questions which for someone who is not</p> <p>16 expecting it, that would affect the</p> <p>17 amount of time I had with the questions</p> <p>18 as well as the exam.</p> <p>19 Q. But you realize that the</p> <p>20 overall purpose of the USMLE is to make</p> <p>21 sure that you have all the knowledge and</p> <p>22 information necessary to practice</p> <p>23 medicine?</p> <p>24 A. I understand, but then I</p>

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<p>1 would have -- when I asked them whether 2 I'm getting an exam comparable to 2007 3 which is part of their policies and 4 procedures, then it should be comparable 5 to 2007. They should have told me I 6 would have the most updated exam at the 7 time of the validation exam which is not 8 what they told me. 9 Q. Didn't you actually ask 10 whether the score would be the same as 11 2007? 12 A. I asked about the score, but 13 I also clarified by -- I believe I was 14 informed on the phone; I forget if it was 15 Detich or Amy, as to whether or not it's 16 comparable, but I took more of that from 17 the policies and procedures. I believe 18 it says the validation is comparable to 19 the exam that you took. 20 Q. Okay. 21 A. So that -- and especially 22 because the media which is what I 23 referred to earlier, media questions make 24 a big difference in terms of length of</p>	<p>1 about answering it correctly, I think 2 it's answering it correctly, including 3 having more time for other questions I 4 think all around. And since it's a 5 pass/fail and I get no kind of analysis 6 of where I did good or bad, I can't 7 really give a detailed response to that. 8 Q. Now, the validating exam and 9 the exam, what the requirement is is that 10 they be comparable. Is that right? 11 A. Comparable to the exam I 12 took is what -- 13 Q. Right. Comparable, not 14 exact? 15 A. No. Not exact. I never 16 said exact. 17 Q. Right. So you reject this 18 statistical analysis saying that they're 19 comparable? 20 A. I believe that -- I have to 21 go through it one more time, but I cannot 22 say that it was as comparable as they 23 make it seem. 24 Q. Well, specifically on page 1</p>
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<p>1 time. 2 Q. So you don't believe that 3 you should have been required to 4 have -- to be tested on any of the items 5 that were after 2007? 6 A. Yeah. I don't believe I 7 should have gotten any questions that 8 were added in over those four years. I 9 believe I should have got comparable or 10 they should have given me fair warning 11 that the exam has changed so much and 12 you'll get the most recent type of exam, 13 because my studying was based on stuff 14 that I had studied from the past, not all 15 the new stuff, including, as I wrote in 16 my e-mail to her, even the wording 17 changed in terms of the way they 18 described certain questions and answers. 19 Q. Do you have some reason to 20 believe that if you had answered more 21 media questions correctly that you would 22 have passed the validating exam? 23 A. I can't say either/or 24 because I don't think it's so much only</p>	<p>1 of this, in the last paragraph it says: 2 By content specifications, the 2007 to 3 2011 examination were essentially the 4 same, in parentheses, 93.8 percent of the 5 items in the 2007 examination were from 6 the same specified content category as 7 items in the 2011 examination, and there 8 was only one new category. 9 Then he goes on to write: 10 The 93.8 percent should actually be 11 higher since the number of items on the 12 examination decreased by eight. The 13 adjusted percentage of items that were 14 from the same content category is 96.4. 15 A. Again, content category. 16 Very broad as to what he's talking about. 17 I can say content category. Again, I can 18 say it's depression and he can touch on 19 any portion. The exams and what is 20 focused on in terms of the review boards 21 and stuff focus on areas that they're 22 specific to. So if they change over the 23 years as to what their focus is or change 24 medications or change whatever it may be,</p>

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<p>1 it does make a difference.</p> <p>2 Q. So 96.4 percent in your mind</p> <p>3 is not comparable?</p> <p>4 A. Again, I think I need more</p> <p>5 specific as to what content category he's</p> <p>6 talking about. Obviously, the subjects</p> <p>7 do not change in terms of -- going back</p> <p>8 to the score reports. It's still</p> <p>9 medicine and peds and OB-GYN and</p> <p>10 psychiatry and all the -- so if that's</p> <p>11 what he's considering content as a</p> <p>12 general, then yeah. That's not going to</p> <p>13 change. So like I said, I would need</p> <p>14 clarification as to what specifically he</p> <p>15 means by content category.</p> <p>16 Q. So, again, even though he's</p> <p>17 applied -- this letter is nine paragraphs</p> <p>18 long, correct?</p> <p>19 A. That's correct.</p> <p>20 Q. And in this letter he talks</p> <p>21 about the exam in its entirety, including</p> <p>22 in the third paragraph very specific</p> <p>23 types of questions and the content areas</p> <p>24 like pituitary and hypothalamic</p>	<p>1 the comparability of the test form to the</p> <p>2 test form that you originally took in</p> <p>3 2007. Please be assured that there were</p> <p>4 only minor differences in the focus of</p> <p>5 the content between these two</p> <p>6 examinations, and the two test forms are</p> <p>7 comparable.</p> <p>8 Although the recent exam</p> <p>9 included some relatively new testing</p> <p>10 formats which required interpretation of</p> <p>11 a small number of heart sounds,</p> <p>12 pharmaceutical advertisements and medical</p> <p>13 abstracts, your performance on these</p> <p>14 formats did not have an impact on your</p> <p>15 overall -- on your pass/fail outcome.</p> <p>16 For your information, your</p> <p>17 examination was scored using the</p> <p>18 pass/fail standard that was in effect at</p> <p>19 the time of your 2007 administration, not</p> <p>20 the current higher standard.</p> <p>21 So does that answer your</p> <p>22 question as to the impact of those new</p> <p>23 items?</p> <p>24 A. They, again, are saying</p>
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<p>1 disorders, heat-related illness. It's</p> <p>2 really a detailed analysis of those</p> <p>3 examinations, right?</p> <p>4 A. Okay.</p> <p>5 Q. Well, I'm asking you.</p> <p>6 A. Well, he has a lot of</p> <p>7 details. Again, like I said, I can only</p> <p>8 say that he has details in here, so I</p> <p>9 can't really compare based on what he's</p> <p>10 comparing.</p> <p>11 Q. Well, what would allow you</p> <p>12 to compare?</p> <p>13 A. Him sitting down here and</p> <p>14 explaining to me line by line what he</p> <p>15 means.</p> <p>16 Q. Let's go to No. 50. Do you</p> <p>17 recognize No. 50?</p> <p>18 A. This seems to be -- this was</p> <p>19 a validation exam results letter.</p> <p>20 Q. And you received this?</p> <p>21 A. Yes, I did.</p> <p>22 Q. In the third paragraph it</p> <p>23 says: After taking the validating</p> <p>24 examination you expressed a concern about</p>	<p>1 there are items here that were not on my</p> <p>2 exam which was my first complaint. So if</p> <p>3 I have never seen them and they show up</p> <p>4 on my screen, they are going to hold me</p> <p>5 back and hinder my moving forward.</p> <p>6 Secondly, if you are going</p> <p>7 to tell me that my original exam cannot</p> <p>8 be validated because I had exposure and</p> <p>9 therefore was quicker, then the opposite</p> <p>10 should be true; that if I'm hit with this</p> <p>11 many questions that are not something I</p> <p>12 prepared for, they would hold me back and</p> <p>13 prevent me from finishing in a timely</p> <p>14 manner.</p> <p>15 Q. So they should have given</p> <p>16 you extra time because you weren't</p> <p>17 cheating?</p> <p>18 A. No. They should have given</p> <p>19 me an exam they told me I was going to</p> <p>20 get which was the 2007 exam, not a 2011</p> <p>21 exam.</p> <p>22 Q. So if they had given you a</p> <p>23 2007 exam and scored it based on the 2007</p> <p>24 standards, you're telling us that you</p>

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<p>1 would have been satisfied with that?</p> <p>2 A. I would have been satisfied</p> <p>3 with that.</p> <p>4 Q. Let's go to 51. In this</p> <p>5 string of e-mails you write with regard</p> <p>6 to -- this is registering for -- after</p> <p>7 you've not passed the validating exam,</p> <p>8 registering for Step 2 CK over again,</p> <p>9 right?</p> <p>10 A. That's correct.</p> <p>11 Q. And you say: The only other</p> <p>12 question I had is if the USMLE is offered</p> <p>13 between January 1st and January 11th,</p> <p>14 when do I have to apply to get a</p> <p>15 December, January, February block, right?</p> <p>16 A. You jumped all the way to</p> <p>17 the top. Okay.</p> <p>18 Q. Yeah. At the top.</p> <p>19 A. Okay.</p> <p>20 Q. Is that right? You wanted</p> <p>21 to get a December, January, February</p> <p>22 block?</p> <p>23 A. I had to because if you go</p> <p>24 further, the seven-year rule takes into</p>	<p>1 that scores obtained on the validating</p> <p>2 exam were not reported so no score report</p> <p>3 or performance profile was available. Is</p> <p>4 that right?</p> <p>5 A. That's what's written.</p> <p>6 Q. Your second question is</p> <p>7 about whether all of your attempts stay</p> <p>8 on your transcript or whether you get a</p> <p>9 fresh transcript with new attempts. Is</p> <p>10 that right?</p> <p>11 A. That's correct.</p> <p>12 Q. Your third question is if</p> <p>13 you re-take the exam again, do you keep</p> <p>14 the higher score or will it be treated</p> <p>15 like a validating exam?</p> <p>16 And Amy Buono writes back:</p> <p>17 Yes. If you test again it will not be a</p> <p>18 validating exam so whatever score you</p> <p>19 achieve is the one that will be part of</p> <p>20 your record?</p> <p>21 Fourth question: Based on</p> <p>22 the sixth attempt limit, does that mean I</p> <p>23 get six new attempts for Step 2 starting</p> <p>24 January 1st, 2013?</p>
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<p>1 effect basically because my CS was taken</p> <p>2 January 5th, I believe, 2005 and going</p> <p>3 into 2012 would have hit me at my seven</p> <p>4 years and then I would have to wind up</p> <p>5 taking the CS over again if I didn't take</p> <p>6 the Step 2 before then.</p> <p>7 Q. Right. So you wanted to get</p> <p>8 the last possible Step 2 CK block that</p> <p>9 would still allow you to use your Step 1</p> <p>10 score?</p> <p>11 A. Yes.</p> <p>12 Q. On the bottom of the first</p> <p>13 page, Amy Buono writes: Dear Mat,</p> <p>14 responses to your questions are in green.</p> <p>15 These are questions that you</p> <p>16 had asked after you learned that you</p> <p>17 failed the validating exam --</p> <p>18 A. That's correct.</p> <p>19 Q. -- right?</p> <p>20 Your first question was</p> <p>21 could you get an actual score report of</p> <p>22 the validation exam and the subject</p> <p>23 breakdown to see my weak areas?</p> <p>24 And the answer to that was</p>	<p>1 And Amy Buono writes back:</p> <p>2 No. It means if you had six or more</p> <p>3 failed attempts at a particular Step, you</p> <p>4 will be not allowed to submit an</p> <p>5 application after January 1st, 2013 to</p> <p>6 take that Step.</p> <p>7 A. That's correct.</p> <p>8 Q. And the next one you write,</p> <p>9 next question: If I have to re-take Step</p> <p>10 CS and Step 1 based on the seven-year</p> <p>11 rule, is it a new set of six attempts or</p> <p>12 do the old ones count against me?</p> <p>13 And Amy Buono writes: No.</p> <p>14 You will not be allowed a new set of six</p> <p>15 attempts. See previous response.</p> <p>16 A. Correct.</p> <p>17 Q. Let's go to 52. Do you</p> <p>18 recognize Exhibit 52?</p> <p>19 A. This was me asking for -- to</p> <p>20 relook into my case.</p> <p>21 Q. And when did you submit this</p> <p>22 letter?</p> <p>23 A. At the end of December of</p> <p>24 2012.</p>



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<p>1 Q. It's a four-page letter. Is 2 that right?</p> <p>3 A. That's correct.</p> <p>4 Q. Let's go to 53. On page 5 53 -- or Exhibit 53 there's a string of 6 e-mails that are between Amy Buono and a 7 woman named Salvatrice Scerbo?</p> <p>8 A. That's correct.</p> <p>9 Q. Is Salvatrice Scerbo the 10 person that you told us about before that 11 you had consulted with about your case?</p> <p>12 A. Yes, it is.</p> <p>13 Q. Is she an attorney?</p> <p>14 A. Yes, she is.</p> <p>15 Q. Where does she work?</p> <p>16 A. She's not working as an 17 attorney. She works as a compliance 18 officer.</p> <p>19 Q. At St. Barnabas?</p> <p>20 A. In the Bronx.</p> <p>21 Q. And is she also the person 22 that attended the Rule 16 scheduling 23 conference with you?</p> <p>24 A. She is.</p>	<p>1 page -- to Amy Buono: Good morning. I 2 hope you had a wonderful weekend and all 3 is well. Thank you again for reviewing 4 his file. I had another request from 5 Mathew. Is it possible for Mathew to 6 schedule a meeting with you and staff to 7 discuss his matter in person?</p> <p>8 And then in response Amy 9 Buono writes back on January 14th: Hi, 10 Tricia. Staff does not customarily meet 11 in person with examinees. Standard 12 practice is for communications to take 13 place by phone or in writing. Also, I'm 14 unsure of what else there is to discuss 15 about Mathew's situation or how 16 discussing it in person would affect the 17 outcome.</p> <p>18 I'm sorry, but if there's 19 new information Mathew would like to 20 present for consideration it should be 21 done in writing. I regret I could not 22 respond positively to your request. Best 23 regards, Amy.</p> <p>24 A. Correct.</p>
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<p>1 Q. And she also came with you 2 today, right?</p> <p>3 A. Yes. She's somewhere around 4 here.</p> <p>5 Q. And in these e-mails, let's 6 go to the back first. Actually, second 7 to the last page. You write on December 8 13th, 2012: Hello, Amy. Please take 9 this e-mail as an authorization for you 10 to speak with Salvatrice Scerbo, in 11 parentheses, Tricia, regarding all 12 matters related to my USMLE exams and 13 ECFMG certification.</p> <p>14 You give your ID number and 15 then you write: This e-mail also 16 authorizes Tricia to speak to anyone at 17 NBME/USMLE regarding my information and 18 exam history as she sees fit for her to 19 assist me in trying to appeal my exam 20 status.</p> <p>21 Is that right?</p> <p>22 A. That's correct.</p> <p>23 Q. On January 14th, 2013 Ms. 24 Scerbo writes -- and this is on the first</p>	<p>1 Q. Were those e-mails shared 2 with you?</p> <p>3 A. It was not shared with me. 4 I was just told.</p> <p>5 Q. Let's go to 54. This is an 6 e-mail from Amy Buono to Ms. Scerbo and 7 to you. Is that right?</p> <p>8 A. Yes.</p> <p>9 Q. And the last paragraph on 10 Amy Buono's e-mail says: After a 11 thorough review of our records and your 12 appeal documentation dated December 19th, 13 2012, senior staff have determined that 14 there are insufficient grounds for a 15 reconsideration of your case.</p> <p>16 Is that right?</p> <p>17 A. That's correct.</p> <p>18 Q. Let's go to 55. February 19 8th, 2013. The subject is legal 20 representation, and it's from you to Amy 21 Buono. You write: Amy, this e-mail is 22 to certify that Rebecca A. Robichaud -- 23 and that's R-O-B-I-C-H-A-U-D -- is 24 authorized to speak on my behalf, and you</p>

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<p>1 can release any information regarding my 2 case to Ms. Robichaud. Thank you for 3 your cooperation. 4 Now, you write here in your 5 signature line, Mathew Thomas, Jr., M.D., 6 MHSA, CHC. What is CHC? 7 A. Certified healthcare 8 compliance. 9 Q. Exhibit 56. In Exhibit 56, 10 this is Ms. Robichaud to Ms. Buono at the 11 bottom of the first page. Ms. Buono, 12 thank you again for your time today. I 13 want to try to summarize our conversation 14 from today. She writes her understanding 15 is that the USMLE does not yet have a 16 formal waiver process in place for the 17 six-attempt limit. 18 She writes: The USMLE will 19 accept requests from state licensure 20 boards to waive the six-attempt limit for 21 individuals and to date has granted those 22 requests specifically from New York and 23 Florida. 24 Based on this, should the</p>	<p>1 Q. So did you contact anyone at 2 the New York board to see if they'd be 3 willing to advocate for you? 4 A. I forget if Rebecca had 5 contacted anyone or not, to be honest. 6 Q. Did you? 7 A. There was one, I don't know 8 if it was an assemblyman or councilman, 9 that I sent a letter to, but I did not 10 get a response. 11 Q. I want to talk a bit about 12 the future and what you envision for 13 yourself. First, with regard to this 14 lawsuit, what exactly is it that you hope 15 to accomplish in filing this lawsuit? 16 A. I would like my exam 17 validated from 2007 and, therefore, be 18 completely ECFME certified and not having 19 to re-take Step 1 or Step 2 CS. 20 Q. If your exam was validated 21 as you said you wished, you recognize 22 that you would still have to take Step 3? 23 A. I'm very much aware of that. 24 Q. What have you done in the</p>
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<p>1 New York licensure board request such a 2 waiver for Dr. Thomas for Step 1 and/or 3 Step 2, USMLE would, based on this 4 precedent, grant the waiver. 5 Also, from our discussion 6 it's my understanding the only thing 7 limiting Dr. Thomas from retaking Step 1 8 and/or Step 2 from USMLE's perspective is 9 the six-attempt limit. The ECFMG has a 10 requirement that Step 1 and Step 2 be 11 taken within seven years of each other. 12 And then Amy Buono writes 13 back: I'd like to make a clarification. 14 I cannot represent the USMLE would grant 15 a waiver of the six-attempt limit should 16 the New York licensure board request it, 17 only that USMLE would consider granting 18 the request. 19 A. Correct. 20 Q. Did the New York board ever 21 request a waiver on your behalf? 22 A. We never went full force 23 with that. We went instead with this 24 process.</p>	<p>1 intervening time to prepare for the Step 2 3 examination? 3 A. I have not done anything. 4 Once this whole process started I had to 5 stop everything. 6 Q. When did you envision taking 7 the Step 3 exam? 8 A. As of right now, I can't 9 unless I take my Step 2 which I can't 10 take because of the six-year rule and the 11 seven-year limit, so, basically, if I 12 don't win this case, I'm done. 13 Q. Let's pretend for a moment 14 that your 2007 score is validated and you 15 do not have to re-take Step 1 or Step 2 16 CS, and your Step 2 CK is validated. 17 When would you anticipate taking Step 3? 18 A. If I were to get everything 19 validated, it's now, what? January. The 20 match and the scramble process would be 21 at the end of March or middle of March. 22 I would be eligible to be part of that 23 scramble, and dependent on that, I would 24 see where that happens.</p>

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<p>1 If that does not happen I</p> <p>2 would try to take my Step 3 before</p> <p>3 September because September is when you</p> <p>4 start applying for the next year, 2015</p> <p>5 match.</p> <p>6 Q. You had noted before in our</p> <p>7 discussion that you had difficulty</p> <p>8 matching or scrambling because of your</p> <p>9 multiple test attempts?</p> <p>10 A. That is correct.</p> <p>11 Q. How do you see that being</p> <p>12 different now?</p> <p>13 A. I have many more connections</p> <p>14 now. People know me on an individual</p> <p>15 basis as well as a work ethic, and they'd</p> <p>16 probably take the gamble on me.</p> <p>17 Q. Which places do you think</p> <p>18 you'd be likely to match at?</p> <p>19 A. I prefer not to say, to be</p> <p>20 honest.</p> <p>21 Q. Is there a reason why not?</p> <p>22 A. Just prefer not to say.</p> <p>23 Nothing is written in stone. It's just</p> <p>24 my assumptions, so I don't want to put</p>	<p>1 A. I think the range goes</p> <p>2 anywhere from 35,000 to, like, 70,000,</p> <p>3 depending, I think. I mean, the numbers</p> <p>4 have changed over the years. I mean,</p> <p>5 getting 52,000 a year was a big deal back</p> <p>6 four, five years ago.</p> <p>7 Q. And so that would be</p> <p>8 substantially less than money than you're</p> <p>9 making now?</p> <p>10 A. Yes, it was, but in the</p> <p>11 long-run, three years down the road I</p> <p>12 make 150, 200,000 so...</p> <p>13 Q. So if you were to go into</p> <p>14 residency, how long would residency last?</p> <p>15 A. If I do family</p> <p>16 practice/internal medicine, three years.</p> <p>17 If I specialize afterwards, two more</p> <p>18 years. If I get lucky and get into rehab</p> <p>19 or one of the more specialized, three to</p> <p>20 five years. All depends on fellowship,</p> <p>21 et cetera.</p> <p>22 Q. And what are some of the</p> <p>23 hurdles that you expect to face now in</p> <p>24 your journey to become a doctor?</p>
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<p>1 any assumptions on the record.</p> <p>2 Q. Are those places in New</p> <p>3 York?</p> <p>4 A. Yes. There are some in New</p> <p>5 York.</p> <p>6 Q. Are they all in New York?</p> <p>7 A. No.</p> <p>8 Q. Where are the other ones?</p> <p>9 A. There's some, one or two in</p> <p>10 Texas.</p> <p>11 Q. So you would be willing to</p> <p>12 move your family?</p> <p>13 A. For my career, I would move.</p> <p>14 My family would probably stay behind.</p> <p>15 Q. Your wife and your children</p> <p>16 would stay behind?</p> <p>17 A. We have a stepson custody</p> <p>18 situation. She's not going to leave him,</p> <p>19 so I would make the trips.</p> <p>20 Q. How much money would you</p> <p>21 make as a resident?</p> <p>22 A. As a resident? Not too</p> <p>23 much.</p> <p>24 Q. How much do you think?</p>	<p>1 A. What hurdles? Obviously,</p> <p>2 one, getting through this case; second is</p> <p>3 having someone accept me with a residency</p> <p>4 position and, obviously, Step 3.</p> <p>5 Q. Are you at all concerned</p> <p>6 about the fact that you have not been in</p> <p>7 school or studying medicine in any</p> <p>8 formalized setting?</p> <p>9 A. I am not concerned about not</p> <p>10 being in school. I'm more concerned</p> <p>11 about the amount of time given the jobs</p> <p>12 that I take, but come -- if I were to go</p> <p>13 down the road and get everything settled,</p> <p>14 come the end of the semester, I would</p> <p>15 take a leave of absence from all three</p> <p>16 jobs and just focus on studying like I</p> <p>17 did in 2007.</p> <p>18 Q. Are you at all concerned</p> <p>19 about the medical school that you</p> <p>20 graduated from not being recognized as an</p> <p>21 accredited medical school?</p> <p>22 A. My understanding was that it</p> <p>23 was part of the WHO book. There are</p> <p>24 students who have graduated and are done</p>

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<p>1 their residency today or have completed 2 residency, so I don't find it to be an 3 issue unless there's something I don't 4 know about. I haven't really followed 5 up. 6 Q. Have you Googled your 7 medical school lately? 8 A. No, I have not. 9 Q. But you are aware that there 10 are some issues with regard to its 11 accreditation? 12 A. I had no idea, to be honest. 13 Q. You didn't have any idea? 14 A. No. 15 Q. Until I just said something? 16 A. Until you just said 17 something. 18 Q. So what did you understand 19 about the WHO book? 20 A. That they've been in the -- 21 WHO has the book and I've always seen it 22 in the book. I mean, when I graduated 23 and looked up the school it was in the 24 book, so if it's been taken out since, I</p>	<p>1 time to do all that all over again, to be 2 very honest. It would be -- it would 3 have to be a discussion I take. 4 Q. And do you have an alternate 5 plan? 6 A. Well, right now, I'm 7 working. Continue doing what I'm doing. 8 Q. I'll just take you through 9 the documents that we brought, and we'll 10 call these Exhibit 57. 11 A. I don't know what order 12 they're in, to be honest. 13 Q. All of ours should be in the 14 same order. The top is your response to 15 my notice of deposition? 16 A. Correct. 17 Q. So let's look at them 18 side-by-side. So Exhibit 4, I believe it 19 was, is the notice of dep? 20 A. Yes. 21 Q. And on the second page of 22 Exhibit 4, number one is score reports? 23 A. Which I have. As I said 24 before, I don't know if all of them are</p>
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<p>1 have no knowledge of that. 2 Q. So you are not aware that in 3 some states it's not a recognized medical 4 program? 5 A. No. I guess that's a new 6 hurdle. 7 Q. If you're not successful in 8 this case in convincing the Court that 9 you should have your Step 2 CK validated, 10 are you prepared to take that examination 11 again? 12 A. I'd have to think it over 13 and talk to my family regarding that, to 14 be very honest. 15 Q. And if Step 1 had to be 16 taken again, are you prepared to take 17 Step 1 again? 18 A. With the new score being -- 19 so, in other words, right now I have a 20 75, so if I did better I may be open to 21 it, but that basically means I'm doing 22 everything all over again. So I don't 23 know if I have the ability with the full 24 family and kid on the way to have all the</p>	<p>1 here, but the majority of them should be 2 here for Step 1, Step 2 CK and Step 2 CS. 3 Q. Number two, registration 4 materials that relate to exam steps, you 5 write: Plaintiff does not have paper 6 copies of his registration. 7 A. I don't keep any of that 8 stuff. That's usually done online 9 anyway. 10 Q. Number three, USMLE 11 transcript listing all Step attempts and 12 scores. You never had a transcript? 13 A. I never ordered a 14 transcript. You have to order and pay 15 \$50 for it. Never did. 16 Q. Number four, written 17 correspondence, you say see enclosed 18 correspondence? 19 A. Yeah. I put in the letters 20 in between us. A lot of the stuff that's 21 in your... 22 Q. Number five, written 23 communications aside from writings to 24 your lawyer pertaining -- not that you</p>

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<p>1 have a lawyer but anyone you've consulted 2 with as a lawyer. 3 A. I haven't talked to anyone 4 else regarding these issues. 5 Q. Number six, application and 6 course registration materials to study at 7 any prep course? 8 A. I have nothing that I kept. 9 Q. And number seven, any 10 documents illustrating that Mathew 11 Thomas, Jr. has been or currently is 12 employed by Optima University including, 13 but not limited to, pay stubs. 14 You wrote you're not 15 currently employed, but what about with 16 regard to your prior employment then? 17 A. He wasn't giving us pay 18 stubs. He was basically just paying 19 us -- paid me cash or personal checks so 20 there was no stub attached. 21 Q. Did you find that odd? 22 A. No, because at that point, 23 honestly, I was a med student, no job, 24 broke. You take what you can get so --</p>	<p>1 that you've worked? 2 A. That's all on CV. 3 Q. Good. Number 11, any and 4 all employment applications, you 5 indicated you do not have those? 6 A. No. 7 Q. And number 12, a list of 8 places that you were ever enrolled as a 9 student? 10 A. Yeah. There was one typo, 11 the master's, which I noticed right 12 before I came here, so I had to fix that. 13 Q. Well, tell us about that. 14 You did. You fixed it? 15 A. I fixed it. Yeah. I guess 16 I didn't read it over when I printed it 17 out. 18 Q. You wrote the word Joseph 19 instead of Matthew's? 20 A. Yeah. 21 Q. And number 13, federal 22 income tax returns, you wrote not 23 applicable or relative to the time frame 24 of this matter?</p>
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<p>1 and I wasn't working as a regular job 2 every single day so... 3 Q. Right, but you were working 4 at Kaplan, though, right? 5 A. I wasn't getting the hours 6 at that point because it was only 7 Saturdays, and because they don't run the 8 course all the time, especially towards 9 the summer, I wasn't really... 10 Q. Did you pay income taxes on 11 the money that you made as a result of 12 working at Optima? 13 A. No. 14 Q. Number eight was Optima 15 promotion or study materials, you wrote 16 that you don't have any of those? 17 A. He never gave out any 18 materials. 19 Q. It was just a question bank? 20 A. It was just a question bank. 21 Q. Number nine, curriculum 22 vitae you've enclosed? 23 A. Yes. 24 Q. Number ten, a list of places</p>	<p>1 A. Yes. 2 Q. What's the reason that you 3 wrote that? 4 A. I'm not understanding why, 5 what it has to do with me validating or 6 invalidating my exam. 7 Q. But regardless of that, you 8 did not bring those items with you? 9 A. I did not. 10 Q. So let's go through -- okay. 11 It looks to be your resume here? 12 A. Yeah. My CV. The two 13 missing on the CV right now are the 14 nursing school and the MCNY because I 15 didn't really update it with those. 16 Q. Is Optima University on 17 here? 18 A. No. 19 Q. Why not? 20 A. Because I never took that as 21 a thing. Plus, it's a negative. It's a 22 negative thing. I'm not trying to not 23 get a job if I'm putting my resume out 24 there.</p>

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<p>1 Q. Right. Is there anything 2 else that's missing? Any other 3 negatives? 4 A. No. I think all my 5 other -- I mean, like I said, like the 6 small jobs, like I said, when I was at 7 Edwards and doing the security job at 8 Stony Brook, those small jobs I haven't 9 put on here. 10 These are basically my 11 full-time regular jobs that have any kind 12 of experience that will give me a 13 possibility of employment, future 14 employment. 15 Q. Have you ever had any 16 problems with discrimination in the 17 workplace? 18 A. No. I'm actually a very 19 good worker. Most people like me. 20 Q. But, I mean, you've never 21 had any grievances or anything like that 22 and complaints at work? 23 A. The only grievance I had is 24 a union grievance at TCI basically</p>	<p>1 Boards? 2 A. I believe that's the letter 3 that says -- yeah. My Step 3 exam was 4 canceled in July. 5 Q. And the February 17th 6 letter, March 4th letter? 7 A. That's also the letter that 8 I got from ECFMG. 9 Q. Then your written appeal, 10 right? 11 A. That's correct. 12 Q. In the margins of the August 13 25th letter what does that say? 14 A. August 25th included who? 15 Q. Oh, I see. I think you 16 wrote may have. It says there is 17 evidence that 32 percent of the scored 18 items may have? 19 A. May have, yeah. 20 Q. We see your score report 21 from December 31st, 2007? 22 A. That was this. 23 MS. HOLLAND: Let's take a 24 short break.</p>
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<p>1 because I wasn't given the amount of 2 hours I'm entitled to and seniority 3 issues with someone else who was given 4 classes before me even though I had 5 seniority. Other than that, I don't 6 remember having any HR issues or 7 grievance issues. 8 Q. So the next items appear to 9 be -- this appears to be the September 10 15th, 2009 letter, right? 11 A. I think these are just the 12 letters that go back and forth. 13 Q. Policies and procedures? I 14 see that there's some handwritten notes 15 on here. Are those notes that you made? 16 A. Yeah. Those are notes I 17 made as I was making my appeal. 18 Q. Did anyone else make notes 19 on here or is it all your writing? 20 A. No. I think this is all my 21 writing where I focused on in my appeal 22 and then it goes into the appeal. 23 Q. Right. So you have on here 24 also the Federation of State Medical</p>	<p>1 (A short break was taken.) 2 * * * 3 EXAMINATION 4 BY MS. McENROE: 5 Q. Dr. Thomas, we've met 6 before. Again, my name is Elisa McEnroe. 7 I represent the Educational Commission 8 for Foreign Medical Graduates also known 9 as ECFMG. You understand that, correct? 10 A. That's correct. 11 Q. I'm going to try and not 12 cover too much of the same ground as 13 we've covered today but want to ask a 14 couple of questions to clarify some 15 things and also in particular with ECFMG. 16 Understand? 17 A. Okay. 18 Q. As a brief overview of the 19 sequence of events with respect to your 20 indeterminate Step 2 CK exam score, would 21 it be fair to say that you were given an 22 opportunity to appear in person before 23 the USMLE committee? 24 A. Yes.</p>

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<p>1 Q. And it would be fair to say</p> <p>2 that you were given the opportunity to</p> <p>3 provide documentation to that committee?</p> <p>4 A. Yes.</p> <p>5 Q. Would it be fair to say you</p> <p>6 were given an opportunity to bring</p> <p>7 counsel to that appearance?</p> <p>8 A. Yes.</p> <p>9 Q. Following that appearance</p> <p>10 you were informed that your score was</p> <p>11 determined to be indeterminate. Is that</p> <p>12 correct?</p> <p>13 A. That's correct.</p> <p>14 Q. You were also then given an</p> <p>15 opportunity to have a period initially of</p> <p>16 six months in which to take a validating</p> <p>17 exam. Is that correct?</p> <p>18 A. I had the opportunity to</p> <p>19 appeal before the validating exam.</p> <p>20 Q. And you did, in fact, appeal</p> <p>21 the determination of the USMLE committee,</p> <p>22 correct?</p> <p>23 A. Yes, I did.</p> <p>24 Q. And you were given the</p>	<p>1 exception for the six-attempt rule from</p> <p>2 USMLE for the Step 2 CK. Is that</p> <p>3 correct?</p> <p>4 A. It was discussed. I don't</p> <p>5 remember exactly if it was put that way.</p> <p>6 I think it was just a generic six-attempt</p> <p>7 and seven-year exception.</p> <p>8 Q. You did give a request to</p> <p>9 ECFMG for an exception to the seven-year</p> <p>10 rule. Is that correct?</p> <p>11 A. That's correct.</p> <p>12 (Whereupon, a document was</p> <p>13 marked for identification as</p> <p>14 Exhibit No. 58.)</p> <p>15 BY MS. McENROE:</p> <p>16 Q. What I've just handed you</p> <p>17 I've marked as Exhibit 58 for continuity</p> <p>18 from what we marked as Exhibit 57.</p> <p>19 You'll see it's a</p> <p>20 document with a first -- we call Bates</p> <p>21 stamp which is the little number on the</p> <p>22 bottom. That's ECFMG 000627 through 646</p> <p>23 and it's double-sided. Do you see that?</p> <p>24 A. Yes.</p>
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<p>1 result of that appeal, correct?</p> <p>2 A. Yes.</p> <p>3 Q. Following that appeal, you</p> <p>4 were then given six months to take the</p> <p>5 validating exam, correct?</p> <p>6 A. That is correct.</p> <p>7 Q. Ultimately, you were given</p> <p>8 over a year to take a validating exam,</p> <p>9 correct?</p> <p>10 A. Yes.</p> <p>11 Q. That validating exam was</p> <p>12 given to you without an exam fee. Is</p> <p>13 that correct?</p> <p>14 A. That is correct.</p> <p>15 Q. You failed the validating</p> <p>16 exam, correct?</p> <p>17 A. That's correct.</p> <p>18 Q. You did not request a formal</p> <p>19 exception from the USMLE for the</p> <p>20 six-attempt rule with respect to Step 2</p> <p>21 CS. Is that correct? CK, rather. Is</p> <p>22 that correct?</p> <p>23 A. I'm sorry. Say that again.</p> <p>24 Q. You did not request an</p>	<p>1 Q. At the top it says ECFMG</p> <p>2 Medical Education Credentials Committee</p> <p>3 meeting exception request and then it</p> <p>4 says ECFMG Medical Education Credentials</p> <p>5 Committee, April 17th, 2013. Do you see</p> <p>6 that?</p> <p>7 A. Where exactly are you</p> <p>8 looking?</p> <p>9 Q. At the very top.</p> <p>10 A. Okay. Yes.</p> <p>11 Q. This document was provided</p> <p>12 to you from ECFMG in discovery in this</p> <p>13 matter. Is that correct? Do you recall</p> <p>14 having seen this before?</p> <p>15 A. I believe so. I've looked</p> <p>16 at so many different things. Yes.</p> <p>17 Q. Well, let's walk through it</p> <p>18 together, if you would. At the top it</p> <p>19 says name and USMLE/ECFMG ID number. It</p> <p>20 says Mathew Thomas. That's you, correct?</p> <p>21 A. That's correct.</p> <p>22 Q. Then underneath it, it says</p> <p>23 Ross University, St. Matthew's University</p> <p>24 and St. Christopher?</p>

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<p>1 A. That's correct.</p> <p>2 Q. Is that information</p> <p>3 contained in that box with the years</p> <p>4 accurate?</p> <p>5 A. That is correct.</p> <p>6 Q. Thereafter, there's a box</p> <p>7 that says ECFMG certification status, and</p> <p>8 it says ECFMG certificate issued January</p> <p>9 24th, 2008. Does that sound right to</p> <p>10 you?</p> <p>11 A. That's correct.</p> <p>12 Q. And then it says ECFMG</p> <p>13 certificate rendered invalid March 4th,</p> <p>14 2010. Does that sound correct to you?</p> <p>15 A. I'm not sure exactly when</p> <p>16 they invalidated.</p> <p>17 Q. Let's flip to within the</p> <p>18 documents you provided to us today which</p> <p>19 is Exhibit 57. There's a letter dated</p> <p>20 March 4th, 2010 from ECFMG. Let me know</p> <p>21 when you've found it.</p> <p>22 A. Sure. Got it.</p> <p>23 Q. And that letter is addressed</p> <p>24 to you?</p>	<p>1 Thomas is requesting an exception to the</p> <p>2 ECFMG policy requirement that applicants</p> <p>3 must pass those USMLE Steps and Step</p> <p>4 components required for ECFMG</p> <p>5 certification within a seven-year period.</p> <p>6 Did I read that correctly?</p> <p>7 A. That is correct.</p> <p>8 Q. Is that consistent with what</p> <p>9 you recall requesting an exception for?</p> <p>10 A. That was the first</p> <p>11 exception, yes.</p> <p>12 Q. Have you had subsequent</p> <p>13 exception requests?</p> <p>14 A. The intent was to also</p> <p>15 request for the six-attempt as a second</p> <p>16 waiver.</p> <p>17 Q. Do you understand that the</p> <p>18 ECFMG has the seven-year rule, but NBME</p> <p>19 has the six-attempt rule?</p> <p>20 A. Yes.</p> <p>21 Q. Have you made any additional</p> <p>22 requests except for this present one</p> <p>23 being discussed with respect to the</p> <p>24 seven-year rule to ECFMG?</p>
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<p>1 A. Yes.</p> <p>2 Q. Dated March 4th, 2010?</p> <p>3 A. That's correct.</p> <p>4 Q. And it's signed by Ms. Kara</p> <p>5 Corrado from ECFMG, correct?</p> <p>6 A. That's correct.</p> <p>7 Q. And this letter provides</p> <p>8 that the USMLE has determined that your</p> <p>9 Step 2 CK score from December 31st, 2007</p> <p>10 was indeterminate, therefore, making your</p> <p>11 ECFMG certificate invalid.</p> <p>12 A. That's what's written on the</p> <p>13 bottom. Is that what you're focusing on?</p> <p>14 Q. I was paraphrasing. That's</p> <p>15 the general content of the letter?</p> <p>16 A. Yes.</p> <p>17 Q. Going back to Exhibit 58.</p> <p>18 Then you see it says ECFMG certificate</p> <p>19 rendered invalid March 4th, 2010. Does</p> <p>20 that appear to be correct having looked</p> <p>21 at that letter?</p> <p>22 A. That's correct.</p> <p>23 Q. Then under that there's a</p> <p>24 request for exception and it reads: Dr.</p>	<p>1 A. No. This is the only one to</p> <p>2 ECFMG.</p> <p>3 Q. A little further down you'll</p> <p>4 see underneath those boxes on the first</p> <p>5 page of the Exhibit 58 it says: Dr.</p> <p>6 Thomas is requesting an exception to the</p> <p>7 ECFMG policy requirement that applicants</p> <p>8 must pass those USMLE Steps and Step</p> <p>9 components required for ECFMG</p> <p>10 certification within a seven-year period.</p> <p>11 Did I read that correctly?</p> <p>12 A. That's correct.</p> <p>13 Q. There's then a discussion of</p> <p>14 the ECFMG policy. Do you see where that</p> <p>15 is?</p> <p>16 A. Yes, I do.</p> <p>17 Q. Can you please read that</p> <p>18 paragraph to yourself and then let me</p> <p>19 know if that's consistent with your</p> <p>20 understanding?</p> <p>21 A. That coincides with what I</p> <p>22 know.</p> <p>23 Q. So to paraphrase, it would</p> <p>24 be fair to say that in order to become</p>

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<p>1 ECFMG certified, an applicant needs to</p> <p>2 pass Step 1, Step 2 CK and Step 2 CS</p> <p>3 within a period of exactly seven years?</p> <p>4 A. Yes.</p> <p>5 Q. So within seven years of the</p> <p>6 first passing date?</p> <p>7 A. Yes.</p> <p>8 Q. And you understood that at</p> <p>9 the time when you were making this</p> <p>10 request?</p> <p>11 A. Yes.</p> <p>12 Q. I'd like to direct your</p> <p>13 attention ahead to the second page in</p> <p>14 that exhibit where there's a chart of</p> <p>15 your examination history?</p> <p>16 A. Yes.</p> <p>17 Q. Please take a look at that</p> <p>18 chart and let me know if you see anything</p> <p>19 that does not look accurate to you?</p> <p>20 A. That seems accurate.</p> <p>21 Q. So if I may summarize,</p> <p>22 looking first at just Step 1?</p> <p>23 A. Yes.</p> <p>24 Q. You've taken Step 1 seven</p>	<p>1 A. That's correct.</p> <p>2 Q. Looking at Step 2 CK, you've</p> <p>3 taken that exam six times for what's</p> <p>4 recorded here. Is that correct?</p> <p>5 A. That's correct.</p> <p>6 Q. Would it be fair to say you</p> <p>7 also took a validating exam?</p> <p>8 A. Yes.</p> <p>9 Q. So you've taken Step 2</p> <p>10 CK -- you've sat for that exam seven</p> <p>11 times?</p> <p>12 A. That's correct.</p> <p>13 Q. The only instance in which</p> <p>14 you had a passing score reflected was on</p> <p>15 the administration of Step 2 CK on</p> <p>16 December 31st 2007. Is that correct?</p> <p>17 A. That's correct.</p> <p>18 Q. And that's the score we've</p> <p>19 been discussing today as having been</p> <p>20 deemed indeterminate. Is that correct?</p> <p>21 A. Yes.</p> <p>22 Q. And as of this past December</p> <p>23 31st, that was just a couple weeks back,</p> <p>24 that was about six years ago, correct?</p>
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<p>1 times, correct?</p> <p>2 A. Correct.</p> <p>3 Q. The first time was in May</p> <p>4 2002 and the last time was in February</p> <p>5 2006?</p> <p>6 A. Correct.</p> <p>7 Q. You ultimately passed on</p> <p>8 February 14th, 2006, correct?</p> <p>9 A. That's correct.</p> <p>10 Q. As of this coming February</p> <p>11 that will have been eight years ago. Is</p> <p>12 that correct?</p> <p>13 A. The Step 1.</p> <p>14 Q. For Step 1?</p> <p>15 A. That is correct.</p> <p>16 Q. Looking at Step 2 CS, it</p> <p>17 appears you've taken that exam one time,</p> <p>18 January 12th, 2005, and you passed that</p> <p>19 exam. Is that correct?</p> <p>20 A. That's correct.</p> <p>21 Q. So as of this coming January</p> <p>22 12th, which is just two days from now,</p> <p>23 that will have been nine years ago. Is</p> <p>24 that correct?</p>	<p>1 A. That is correct.</p> <p>2 Q. And you have not yet taken</p> <p>3 Step 3?</p> <p>4 A. No.</p> <p>5 Q. You indicated some intention</p> <p>6 to practice medicine in New York --</p> <p>7 A. Yes.</p> <p>8 Q. -- in the future?</p> <p>9 A. Yes.</p> <p>10 Q. Do you have an understanding</p> <p>11 of what New York State's requirements are</p> <p>12 in order to become licensed with respect</p> <p>13 to the USMLE?</p> <p>14 A. I don't know what the</p> <p>15 current regs are.</p> <p>16 Q. You mentioned some intention</p> <p>17 to become licensed to practice medicine</p> <p>18 potentially in Texas?</p> <p>19 A. Yes.</p> <p>20 Q. Do you have any</p> <p>21 understanding of what the State of</p> <p>22 Texas's requirements are with respect to</p> <p>23 the USMLE?</p> <p>24 A. I have not looked into it</p>

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<p>1 recently.</p> <p>2 Q. What steps have you taken to</p> <p>3 prepare for trying to enter the practice</p> <p>4 of medicine?</p> <p>5 A. Well, I did look into these</p> <p>6 things years ago, but since the rules</p> <p>7 change all the time, I haven't updated it</p> <p>8 because everything has been pending since</p> <p>9 2000 -- basically 2008, 2009.</p> <p>10 Q. Have you taken any steps to</p> <p>11 keep your medical knowledge up to date?</p> <p>12 A. Yes. I do teach courses at</p> <p>13 the nursing school as well as other</p> <p>14 schools. I do tutoring on the side</p> <p>15 sometimes.</p> <p>16 Q. Have you done work to</p> <p>17 prepare to have the knowledge that you</p> <p>18 would need to have from, for example,</p> <p>19 Step 1 of the USMLE?</p> <p>20 A. Recently?</p> <p>21 Q. Yes.</p> <p>22 A. No.</p> <p>23 Q. What about with respect to</p> <p>24 Step 2 CK?</p>	<p>1 which I would like to start at the back</p> <p>2 of it which should be at the beginning of</p> <p>3 the e-mail chain, so on the page with the</p> <p>4 Bates stamp ending in 609. See that at</p> <p>5 the bottom?</p> <p>6 A. Yes.</p> <p>7 Q. There's an e-mail to Kara</p> <p>8 Corrado from manu.thomas.31@gmail.com</p> <p>9 which I believe we confirmed is your</p> <p>10 e-mail address?</p> <p>11 A. Yes.</p> <p>12 Q. And it's dated February 8th,</p> <p>13 2013 and you're copying Rebecca</p> <p>14 Robichaud?</p> <p>15 A. That's correct.</p> <p>16 Q. The subject matter is legal</p> <p>17 representation, and you write: Kara,</p> <p>18 this e-mail is to certify that Rebecca A.</p> <p>19 Robichaud is authorized to speak on my</p> <p>20 behalf, and you can release any</p> <p>21 information regarding my case to Ms.</p> <p>22 Robichaud. Thank you for your</p> <p>23 cooperation.</p> <p>24 Is that correct?</p>
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<p>1 A. I think Step 2 CK I have the</p> <p>2 knowledge because it's clinical, and</p> <p>3 because I am surrounded in the hospital</p> <p>4 setting, I do hear about cases and</p> <p>5 discuss things, so I have somewhat of a</p> <p>6 knowledge of some of the changes.</p> <p>7 Q. What about Step 2 CS?</p> <p>8 A. I still do clinical skills,</p> <p>9 tutoring on the side sometimes if anyone</p> <p>10 needs help, so those skills have stayed</p> <p>11 intact.</p> <p>12 Q. We discussed just a little</p> <p>13 while ago your request for an exception</p> <p>14 to ECFMG's seven-year rule?</p> <p>15 A. Yes.</p> <p>16 Q. I'd like to walk through</p> <p>17 that chronology. I'm going to hand you a</p> <p>18 document that I will be marking as</p> <p>19 Exhibit 59.</p> <p>20 (Whereupon, a document was</p> <p>21 marked for identification as</p> <p>22 Exhibit No. 59.)</p> <p>23 BY MS. McENROE:</p> <p>24 Q. This is an e-mail chain</p>	<p>1 A. Correct.</p> <p>2 Q. Who is Kara Corrado?</p> <p>3 A. Kara? Kara works under Bill</p> <p>4 Kelly from what I understand works at</p> <p>5 ECFMG.</p> <p>6 Q. And you understood when you</p> <p>7 were e-mailing her that she works at</p> <p>8 ECFMG?</p> <p>9 A. Yes.</p> <p>10 Q. And you mentioned Bill</p> <p>11 Kelly. You also understood he works at</p> <p>12 ECFMG?</p> <p>13 A. Yes.</p> <p>14 Q. Flipping to the first page</p> <p>15 in this e-mail chain is an e-mail from</p> <p>16 Rebecca Robichaud to Bill Kelly sent on</p> <p>17 February 8th, 2013. Do you see that?</p> <p>18 A. Yes.</p> <p>19 Q. And she writes: Bill, thank</p> <p>20 you again for taking the time to talk to</p> <p>21 me today regarding Dr. Thomas. As we</p> <p>22 discussed, the key issue is that because</p> <p>23 of his appeal pending with USMLE, Dr.</p> <p>24 Thomas was unable to re-take his Step 2</p>

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<p>1 examination and the appeal lasted over 2 four years. 3 This loss of time during the 4 appeals process has now affected Dr. 5 Thomas's ability to complete his Step 2 6 examination within seven years of passing 7 his Step 1 examination as required by 8 ECFMG. 9 It is my understanding from 10 our conversation that the only way to 11 obtain a waiver to the seven-year 12 requirement is by submitting a written 13 request to the credentialing committee of 14 ECFMG which does not meet again until 15 April 2013. 16 Did I read that correctly? 17 A. That's correct. 18 Q. And that's the request for 19 an exception to the seven-year rule we've 20 been discussing? 21 A. That's correct. 22 Q. And that was a request made 23 on your behalf, correct? 24 A. Yes.</p>	<p>1 dated February 17th, 2010 from USMLE, the 2 August 25th, 2000 letter from USMLE -- 3 A. Yes. 4 Q. -- to you and, ultimately, 5 the October 17th, 2011 letter from the 6 USMLE indicating that you had not passed 7 the validating exam, correct? 8 A. That's correct. 9 Q. So your letter to the ECFMG 10 was dated March 27th, 2013, correct? 11 A. I'm sorry. Say that again, 12 please. 13 Q. Your letter to the ECFMG 14 credentialing committee was dated March 15 27th, 2013, correct? 16 A. That's correct. 17 Q. I'm going to hand you what I 18 will mark as Exhibit 60. 19 (Whereupon, a document was 20 marked for identification as 21 Exhibit No. 60.) 22 BY MS. McENROE: 23 Q. What I just handed you is an 24 April 1st, 2013 ECFMG letter to you,</p>
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<p>1 Q. Going back to what I had 2 given you as Exhibit No. 58 which is the 3 ECFMG document we were looking at? 4 A. Yes. 5 Q. Attached thereto is included 6 a letter dated March 27th, 2013. 7 A. Yes. 8 Q. Do you see that? 9 That begins on the page with 10 a Bates number ending in 630? 11 A. That's correct. 12 Q. And this is a letter from 13 you to the credentialing committee at 14 ECFMG. Is that correct? 15 A. That's correct. 16 Q. And you included with that a 17 number of exhibits for attachments, if we 18 can take a look at the letter. You'll 19 see you included a copy of your passing 20 Step 2 CK report, the letter from FSMB. 21 A. Step 3. 22 Q. The cover page from your 23 personal appearance at the USMLE 24 committee, the letter that you received</p>	<p>1 correct? 2 A. Correct. 3 Q. And it starts by saying: 4 Dear Dr. Thomas, this will acknowledge 5 receipt of your request for an exception 6 to the ECFMG policy requirements that 7 applicants must pass those USMLE Steps 8 and Step components required for ECFMG 9 certification within a seven-year period? 10 A. That's correct. 11 Q. And you received this 12 letter. Is that correct? 13 A. Yes, I did. 14 Q. The letter goes on to say: 15 While you have not specified the length 16 of the additional time beyond seven years 17 you are requesting, it appears you is 18 asking for an additional two years and 19 three months, the amount of time you 20 write that you were prevented from taking 21 the USMLE exam due to an investigation by 22 the USMLE program surrounding the 23 validity of your score on the December 24 21st, 2007 Step 2 CK.</p>

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<p>1 Did I read that correctly?</p> <p>2 A. That is correct.</p> <p>3 Q. Did you understand that to</p> <p>4 pertain to your December 31st, 2007</p> <p>5 score?</p> <p>6 A. Yes.</p> <p>7 Q. And is that indeed the</p> <p>8 length of time you were requesting for an</p> <p>9 exception?</p> <p>10 A. Approximately.</p> <p>11 Q. And do you have an</p> <p>12 understanding that the ECFMG committee</p> <p>13 did consider your request?</p> <p>14 A. Yes.</p> <p>15 Q. And what I have given you as</p> <p>16 Exhibit 58 is information for the ECFMG</p> <p>17 Medical Education Credentials Committee</p> <p>18 regarding your request, correct?</p> <p>19 A. Yes.</p> <p>20 Q. And you will see that that</p> <p>21 included your letter to ECFMG regarding</p> <p>22 this matter dated March 27th, 2013?</p> <p>23 A. Yes.</p> <p>24 (Whereupon, a document was</p>	<p>1 Did I read that accurately?</p> <p>2 A. Yes, you did.</p> <p>3 Q. Did you receive this letter?</p> <p>4 A. Yes, I did.</p> <p>5 Q. So it would be fair to</p> <p>6 summarize that with respect to your</p> <p>7 request to ECFMG for an exception to the</p> <p>8 seven-year rule, you had counsel make</p> <p>9 that request on your behalf?</p> <p>10 A. Yes.</p> <p>11 Q. You then wrote a letter</p> <p>12 fully explaining your request and</p> <p>13 attaching documentation?</p> <p>14 A. Yes.</p> <p>15 Q. That letter and</p> <p>16 documentation and additional relevant</p> <p>17 information including, for example, your</p> <p>18 score exam history was provided to the</p> <p>19 ECFMG Medical Education Credentials</p> <p>20 Committee, correct?</p> <p>21 A. Yes.</p> <p>22 Q. The Medical Education</p> <p>23 Credentials Committee then considered</p> <p>24 your request, correct?</p>
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<p>1 marked for identification as</p> <p>2 Exhibit No. 61.)</p> <p>3 BY MS. McENROE:</p> <p>4 Q. I'm handing you what has</p> <p>5 been marked as Exhibit 61. And this is</p> <p>6 an April 25th, 2013 letter from ECFMG to</p> <p>7 you with a Bates number of ECFMG 615,</p> <p>8 informing you that the ECFMG Medical</p> <p>9 Education Credentials Committee has</p> <p>10 completed its review of your request for</p> <p>11 an exception to the ECFMG policy</p> <p>12 requirement that applicants must pass</p> <p>13 those USMLE Steps and Step components</p> <p>14 required for the ECFMG certification</p> <p>15 within a seven-year period.</p> <p>16 The ECFMG committee reviewed</p> <p>17 this matter at its April 17th, 2013</p> <p>18 meeting. Following careful review, the</p> <p>19 ECFMG committee took action to deny your</p> <p>20 request for an individual exception to</p> <p>21 the ECFMG credential requirement that</p> <p>22 applicants must pass those USMLE Steps</p> <p>23 and Step components required for ECFMG</p> <p>24 certification within a seven-year period.</p>	<p>1 A. Yes.</p> <p>2 Q. And that exception was</p> <p>3 denied?</p> <p>4 A. Yes.</p> <p>5 Q. I'd like to move briefly</p> <p>6 through the claims you bring in this</p> <p>7 case --</p> <p>8 A. Yes.</p> <p>9 Q. -- to make sure that I'm</p> <p>10 clear on which claims you're bringing</p> <p>11 with respect to ECFMG.</p> <p>12 So earlier today we</p> <p>13 discussed your complaint and your amended</p> <p>14 complaint --</p> <p>15 A. Yes.</p> <p>16 Q. -- which are included in the</p> <p>17 binder of documents in front of you at</p> <p>18 tabs 1 and 2, and you articulated the</p> <p>19 following claims. First, you said</p> <p>20 discrimination, correct?</p> <p>21 A. Yes.</p> <p>22 Q. And you said that that</p> <p>23 discrimination was based on the fact that</p> <p>24 you had been an Optima student, correct?</p>

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<p>1 A. Yes.</p> <p>2 Q. Are you saying that</p> <p>3 discrimination is based on anything else?</p> <p>4 A. I think also it's based on</p> <p>5 my test exam history, the amount of</p> <p>6 attempts I've taken over the years.</p> <p>7 Q. Anything else?</p> <p>8 A. I guess to a point it may</p> <p>9 also be the notion that I switched</p> <p>10 schools so much, whether it's assumed</p> <p>11 that it was because of reasons that they</p> <p>12 kicked me out versus me choosing to</p> <p>13 leave.</p> <p>14 Q. Anything else?</p> <p>15 A. No. I think that's about</p> <p>16 it.</p> <p>17 Q. So your discrimination claim</p> <p>18 is based on your allegations that you</p> <p>19 were discriminated against based on being</p> <p>20 an Optima student, on your attempt</p> <p>21 history of examination history, on your</p> <p>22 having switched medical schools?</p> <p>23 A. And working for him.</p> <p>24 Q. And working for him?</p>	<p>1 Medical Education Credentials Committee</p> <p>2 was provided with your accurate exam</p> <p>3 history when considering your exception</p> <p>4 request?</p> <p>5 A. I think also the fact that</p> <p>6 ECFMG was present, had a member present</p> <p>7 at the score validity exam. All contents</p> <p>8 that were said at that hearing including</p> <p>9 my employment with Optima and me being a</p> <p>10 student there may also have led</p> <p>11 to -- because I'm unaware of who actually</p> <p>12 sits on that committee, but I think Bill</p> <p>13 Kelly may have even been at that initial</p> <p>14 hearing.</p> <p>15 Q. Are you alleging that ECFMG</p> <p>16 has done anything specifically to you to</p> <p>17 discriminate against you?</p> <p>18 A. I think the decision was</p> <p>19 made based on a discriminatory matter,</p> <p>20 not personally to affect me, but the</p> <p>21 decision they took in terms of extending</p> <p>22 was based on the history, all the history</p> <p>23 given.</p> <p>24 Q. Aside from the decision not</p>
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<p>1 A. Not just being a student but</p> <p>2 I think predominantly working for him</p> <p>3 after my exam.</p> <p>4 Q. And who are you alleging has</p> <p>5 discriminated against you on these bases?</p> <p>6 A. I believe that the NBME</p> <p>7 definitely has. The ECFMG may have to a</p> <p>8 point given the request that was given</p> <p>9 with all the attempts may have tainted</p> <p>10 the opinion of the committee.</p> <p>11 Q. Would it be fair to describe</p> <p>12 your discrimination complaint against</p> <p>13 ECFMG as solely being related to the fact</p> <p>14 that in connection with its consideration</p> <p>15 of your request for an exception to the</p> <p>16 seven-year rule, ECFMG was aware of your</p> <p>17 exam history?</p> <p>18 A. You might have to rephrase</p> <p>19 that.</p> <p>20 Q. Sure. I don't mind asking</p> <p>21 it again.</p> <p>22 Would it be fair to say that</p> <p>23 your discrimination claim against ECFMG</p> <p>24 solely relates to the fact that the ECFMG</p>	<p>1 to grant your exception request, are you</p> <p>2 alleging that ECFMG discriminated against</p> <p>3 you?</p> <p>4 A. No.</p> <p>5 Q. The next cause of action you</p> <p>6 articulated earlier today was what you</p> <p>7 described as false accusations?</p> <p>8 A. I believe that's more of</p> <p>9 NBME.</p> <p>10 Q. The third cause of action</p> <p>11 you articulated earlier today was</p> <p>12 defamation. Does that pertain to ECFMG?</p> <p>13 A. I think that's mainly NBME</p> <p>14 as well.</p> <p>15 Q. The fourth cause of action</p> <p>16 you articulated earlier today was with</p> <p>17 respect to the First Amendment. You</p> <p>18 claimed a violation of your freedom of</p> <p>19 association?</p> <p>20 A. I think there is a slight</p> <p>21 stereotype based on that.</p> <p>22 Q. What do you mean by that?</p> <p>23 A. Meaning that if I was not an</p> <p>24 Optima student nor had worked for Optima</p>

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<p>1 and I had asked for a waiver based on the 2 fact that an appeal had taken, I think 3 ECFMG may have granted it. 4 Q. Would it be fair to say that 5 your allegation against ECFMG with 6 respect to the alleged violation of your 7 First Amendment right to associate freely 8 pertains only to ECFMG's decision to deny 9 your exception request? 10 A. Yes. 11 Q. Anything else? 12 A. No. I think that was 13 basically it. 14 Q. Additional cause of action, 15 the fifth one you named earlier was 16 negligence for failing to warn about 17 Optima. Does that pertain to ECFMG? 18 A. I think that was an NBME 19 issue as well. 20 Q. The sixth you had mentioned 21 was what you described as guilt by 22 association? 23 A. I think there's a slight, 24 again, in the decision-making. I think</p>	<p>1 process, you're distinguishing that from 2 the exception request process. Is that 3 correct? 4 A. That's correct. The 5 exception request all came to fruition 6 when the six-year rule came into effect, 7 and the dates kind of affected whether or 8 not I could retake the exam so that would 9 be late 2011. 10 Q. As we just walked through 11 the chronology, you would agree that 12 ECFMG took your request for an exception 13 to the seven-year rule seriously? 14 A. Yes, I do. 15 Q. Besides what I've 16 articulated and that we've talked about 17 so far this afternoon, do you have any 18 other claims against ECFMG? 19 A. No. 20 Q. Are you seeking money 21 damages? 22 A. I have yet to decide that. 23 Q. Do you feel that you have a 24 monetary loss that you can quantify that</p>
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<p>1 it comes up as a factor in their 2 decision. 3 Q. What do you mean by that? 4 A. Meaning that, again, had I 5 been an employee of just Kaplan 6 University asking, I don't think they 7 would have seen it as they saw it, me 8 being an employee at Optima. 9 Q. Does that pertain -- strike 10 that. 11 Does your allegation against 12 ECFMG with respect to what you're 13 describing as guilt by association 14 pertain solely to ECFMG's decision not to 15 grant your exception request? 16 A. Yes. 17 Q. You mentioned earlier today 18 that you felt that your appeals were not 19 taken seriously. Is that true with 20 respect to ECFMG? 21 A. I don't believe ECFMG was 22 involved in the appeal process from the 23 invalid score. 24 Q. When you're saying appeal</p>	<p>1 you can tell me today how much money you 2 feel that you are owed? 3 A. I feel if I had gone through 4 the process and gotten residency, I've 5 lost multiple years of salary and thus 6 residency thus and then into a 7 physician's career salary. To quantify, 8 I'm not really sure. 9 Q. You would agree you've been 10 working consistently, correct? 11 A. I have been working since 12 2009, yes. 13 Q. Has there been a period of 14 unemployment during that time? 15 A. No. 16 Q. How long from now do you 17 anticipate entering the practice of 18 medicine? 19 A. If everything was resolved? 20 Q. Correct. 21 A. Within two years. Possibly 22 within a year. 23 Q. On what basis? What would 24 your plan be?</p>

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<p>1 A. My plan is to get in. I</p> <p>2 think my plan would be to reach out to</p> <p>3 those people that I know in the business,</p> <p>4 to reach out to the hospital which I'm</p> <p>5 working for now and, basically, get my</p> <p>6 foot in the door, start the process and</p> <p>7 get whatever they say what I need to get</p> <p>8 done, get it done.</p> <p>9 So if they say we can help</p> <p>10 you but you need Step 3 done, then focus</p> <p>11 on Step 3. If they say that's not a</p> <p>12 problem; we can get you in, but within</p> <p>13 the first year you have to get your Step</p> <p>14 3 done, then take the position and then</p> <p>15 get the Step 3 done in a timely manner.</p> <p>16 Q. You understand that even if</p> <p>17 your December 31st, 2007 Step 2 CK score</p> <p>18 were to be deemed valid by federal court,</p> <p>19 your USMLE transcript would still reflect</p> <p>20 your full examination history, correct?</p> <p>21 A. I understand.</p> <p>22 Q. You understand that would</p> <p>23 include six attempts and fails of Step 1</p> <p>24 before you passed on the seventh attempt?</p>	<p>1 lot more friends that are in residency or</p> <p>2 finished, so they are willing to reach</p> <p>3 out and talk on my behalf. And sometimes</p> <p>4 it's about who you know, not what you</p> <p>5 know.</p> <p>6 Q. You would agree, however,</p> <p>7 that you still need to have the requisite</p> <p>8 knowledge to become a physician in the</p> <p>9 United States, correct?</p> <p>10 A. I believe I have the</p> <p>11 requisite knowledge to be a physician in</p> <p>12 the United States.</p> <p>13 Q. But you'd have to pass Step</p> <p>14 3?</p> <p>15 A. Yes. That, I understand.</p> <p>16 Q. Do you anticipate that</p> <p>17 entering a residency program in the</p> <p>18 United States would be an easy thing to</p> <p>19 do?</p> <p>20 A. Do you mean getting the</p> <p>21 residency position or completing</p> <p>22 residency?</p> <p>23 Q. Getting the position?</p> <p>24 A. I believe it's an uphill</p>
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<p>1 A. Yes.</p> <p>2 Q. And that would include five</p> <p>3 failures on the Step 2 CK?</p> <p>4 A. Yes.</p> <p>5 Q. Do you have connections with</p> <p>6 any program directors for residency</p> <p>7 programs?</p> <p>8 A. I know a lot of people. I'd</p> <p>9 have to reach out to see if anyone has</p> <p>10 been promoted to that level.</p> <p>11 Q. Did you have any of those</p> <p>12 connections back when you were ECFMG</p> <p>13 certified?</p> <p>14 A. No.</p> <p>15 Q. How did you gain those</p> <p>16 connections?</p> <p>17 A. Well, over the years we have</p> <p>18 people -- obviously, 2007. It's now been</p> <p>19 six years. Anyone who graduated from</p> <p>20 there or got into residency is now done</p> <p>21 with residency and practicing.</p> <p>22 I've been working in HHC as</p> <p>23 well as St. Barnabas so I meet people in</p> <p>24 the hospital setting. And then I have a</p>	<p>1 battle, but I think I would be able to</p> <p>2 accomplish that given the opportunity.</p> <p>3 Q. On what basis do you think</p> <p>4 you'd be able to accomplish that given</p> <p>5 your exam history?</p> <p>6 A. As I said, more people have</p> <p>7 seen me working in the work environment</p> <p>8 outside of just a piece of paper that</p> <p>9 says how I did on an exam, and so</p> <p>10 knowledge is much different</p> <p>11 from -- there's those who have clinical</p> <p>12 knowledge and those who have book</p> <p>13 knowledge, and I think based on that, a</p> <p>14 lot more people recognize, when they see</p> <p>15 you, work with you, exactly what you</p> <p>16 have.</p> <p>17 Q. And you're not willing to</p> <p>18 tell us who it is?</p> <p>19 A. No.</p> <p>20 Q. So we can't reach out to</p> <p>21 those people and ask them?</p> <p>22 A. No.</p> <p>23 Q. So you're asking us to just</p> <p>24 take your word for it?</p>

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<p>1 A. I think my validity, 2 validating the exam and me getting into 3 residency are two different avenues. 4 Q. So you think that these 5 people would go out on a limb to give you 6 a residency program position that are 7 admittedly pretty competitive despite 8 your examination history, but you won't 9 tell us who those people are so we can 10 talk to them? 11 A. Well, I've had conversations 12 with people over the last couple years, 13 people asking me when are you going to be 14 able to -- not trying to get into every 15 single detail regarding this case or what 16 I'm going through, so I haven't made it 17 public knowledge exactly what my status 18 is, so some have said they'll help. Some 19 may not help. 20 I can't really take that 21 full force and try to see where -- what's 22 truth in the matter until all of this is 23 resolved. So for that fact, yeah, I 24 can't say they will or won't, but I will</p>	<p>1 to this litigation. I think future is 2 irrelevant to whether or not this score 3 is going to be validated 2007. If 4 they're not going to come through for me, 5 then even if I get a validated score, I'm 6 not going to be practicing medicine. 7 Q. So you would want arguably 8 for the defendants in this case to be 9 financially responsible for your future, 10 whatever it may be, in terms of whatever 11 impact this might have, but you're not 12 willing to tell us how you think you can 13 get there? 14 A. I think that if it comes 15 down to the point where financial 16 responsibility and who's responsible or 17 what is owed back to me becomes a 18 situation, then I would be at the point 19 of situation to release names; but until 20 we get to that point, I find no need to, 21 unless you guys are telling me that 22 financially ECFMG and NBME is going to 23 reimburse me for any losses I may have 24 incurred because of this.</p>
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<p>1 take the assumption that they will try to 2 help if they said it in the past. 3 Q. And you don't have anything 4 in writing committing anyone to help you? 5 A. No. I've never had anybody 6 commit anything to writing. 7 Q. Have you ever had anyone 8 express an interest in assisting you in 9 overcoming administrative hurdles in this 10 action? 11 A. Someone that would step 12 forward? I've had some people when I was 13 in the city hospital say that, you know 14 what, first things first, get Step 3 15 done. At that point, if you can do it 16 well, first attempt, high score, that 17 could be an avenue to look past all of 18 the attempts in 1 and 2. 19 Q. And you won't tell us who 20 those people are? 21 A. No. Not at this point. 22 Q. Do you plan to tell us at 23 all in this litigation? 24 A. I don't think it's relevant</p>	<p>1 Q. You should not take anything 2 we say today as any waiver of claims or 3 defenses we may have just for the 4 purposes of the record. 5 A. No. I understand. 6 Q. In order to get into a 7 residency program you would agree that 8 you need letters of recommendation. Is 9 that correct? 10 A. That is correct. 11 Q. Who would you anticipate 12 getting your letters of recommendation 13 from? 14 A. I already have a clinical 15 letter of recommendation. I can go out 16 on a limb now and possibly get letters of 17 recommendation from those supervisors 18 I've worked with over the last couple of 19 years. 20 Q. Who's your clinical letter 21 of recommendation from? 22 A. I had one from Dr. Gibson 23 who is an orthopedic physician. 24 Q. At which hospital?</p>

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<p>1 A. He was working with me for 2 Center for Orthopaedics. We worked out 3 of Saint Raphael's in Connecticut. 4 Q. And what year is that letter 5 of recommendation? 6 A. Those are all before. That 7 was during my school times of 2002, 2003. 8 Q. Any other letters of 9 recommendation you have? 10 A. I think I had a letter of 11 recommendation from Carlo Hallak who was 12 the program director of Kaplan CS at the 13 time, so he was my direct supervisor in 14 terms of clinical skills and patient note 15 grading. 16 Q. And he is your supervisor 17 from when you were working at the test 18 prep program at Kaplan? 19 A. Yes. 20 Q. He's not working with you in 21 a hospital setting? 22 A. No. He's not working with 23 me in a hospital setting. 24 Q. And when was that letter of</p>	<p>1 residency program application process, 2 what, if anything, would you do with 3 respect to letters of recommendation? 4 A. Well, letters of 5 recommendation, depending on what year 6 I'm doing it. If it winds up being 7 something such as a scramble this year, 8 I'd probably get letters from my current 9 supervisors that I've worked with or my 10 former boss at HHC. 11 If it's something that's 12 going to be next year, I'd probably do an 13 externship or observership at the 14 hospitals to gain some newer letters of 15 recommendation. 16 Q. So would it be fair to say 17 if you did the scramble this year, you 18 would not have any clinical letters of 19 recommendation updated? 20 A. Updated clinical, no. The 21 only one I could reach out to is I did an 22 externship over at Bayley Seton Hospital 23 in Staten Island with psychiatry, and I 24 could probably reach out over there to</p>
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<p>1 recommendation dated? 2 A. It had to be after 2006 3 because I was working at Kaplan after 4 that so somewhere towards 2006 or 2007. 5 I may have used his letter as part of my 6 scramble application. 7 Q. Any other letters of 8 recommendation? 9 A. I do have another one. I 10 forget who that is. 11 Q. A clinical one? 12 A. I do have a clinical one 13 from when I was in Manchester from Dr. 14 Doss, I believe it was. He's a GI 15 hepatology doctor. 16 Q. What year would you estimate 17 that letter was from? 18 A. Well, I was there in 2001, 19 so it has to be from that time. 20 Q. Any other letters of 21 recommendation you have? 22 A. Currently, I don't recall 23 any other ones. 24 Q. If you were to move into a</p>	<p>1 the director to get something. That was, 2 I think, some time in the last -- it's on 3 the CV. I forget what year it was. It 4 was within the last couple years. 5 Q. Let's take a look at your 6 CV. That's within Exhibit 57. Can you 7 point to your externships for me? 8 A. Sure. The one that I did 9 was in psych. Let's see if it's listed 10 here. 11 Q. On the last page you have 12 externship, New York Medical College, 13 Richmond listed? 14 A. January 2009. 15 Q. So that was from January 16 2009, so that's five years ago? 17 A. That's still a couple -- 18 yeah. That's been about four, five years 19 ago. 20 Q. Have you had any more recent 21 externships? 22 A. No, because we were in the 23 middle of all of this, so at that point I 24 couldn't even really go into an</p>

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<p>1 externship saying that I'm valid with the 2 exams. 3 Q. When's the last time you've 4 seen a patient in a medical capacity? 5 A. You mean -- 6 Q. As a medical student? 7 A. -- actually treating? It 8 would be 2009. 9 Q. Do you have any plans to 10 apply for externships in the near future? 11 A. If all this gets resolved, 12 then yes. Basically, medicine would be 13 my main... 14 Q. But in the last five years 15 you've not seen or treated any patients? 16 A. I have not treated any 17 patients. I know about cases because I 18 work in the facilities and cases may come 19 up that we discuss, but I have not been 20 the lead or even a participant in the 21 actual care of a patient. 22 Q. You have not laid hands on a 23 patient? 24 A. No. I have not laid hands</p>	<p>1 from there. 2 Q. But is that yes, you would 3 plan to take a prep course? 4 A. If it's something that I can 5 afford, if it's something that works into 6 my schedule, then yes. 7 Q. Besides taking time off to 8 prepare and taking a prep course, what 9 else would you need to do to be ready for 10 Step 3? 11 A. It has to be a lot of 12 questions, questions, questions, 13 questions. 14 Q. So just practice? 15 A. Just practice, yeah. 16 Q. And you've mentioned today a 17 number of times your interest in passing 18 Step 3 on the first attempt. Is that 19 correct? 20 A. Yes. 21 Q. Why do you think that's 22 important? 23 A. I think that if you can pass 24 Step 3 on the first attempt and break 85,</p>
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<p>1 on any patients. 2 Q. What would be involved in 3 getting prepared for taking Step 3? 4 A. First things first would be 5 open up my entire schedule so I can do 6 Step 3 and only Step 3 and then it would 7 be basically putting in the time with all 8 the -- going through all the material in 9 terms of books, going through all the 10 question banks that are out there and 11 practicing for the clinical portion of 12 the Step 3. 13 Q. How much time do you 14 anticipate you would give yourself to 15 prepare for Step 3? 16 A. Since I haven't touched the 17 material, at minimum it would have to be 18 four months. I'd say four to six months 19 probably give me okay. 20 Q. Do you have plans to take 21 any prep courses for Step 3? 22 A. Prep courses are offered at 23 different times. I'd have to see the 24 schedule of the prep course and then go</p>	<p>1 90, it can make up and give me enough of 2 a ground to justify the issues I have 3 with Step 1 and Step 2. I'm more mature, 4 more knowledgeable, and, basically, I was 5 young back then taking it when I 6 shouldn't have taken it. 7 Half the times when I took 8 it just to see the test, if I had just no 9 score, it would have been better for me, 10 but things changed over the years. It 11 evolved to everything counts. 12 Q. Would you agree that it 13 would be detrimental to your attempt to 14 get a residency program if you failed 15 Step 3 the first time? 16 A. Yes. 17 Q. What do you think would be 18 involved in getting ready to take Step 2 19 CK again? 20 A. I think the same exact steps 21 as Step 3. Again, taking the time off, 22 studying, going through all the question 23 banks, doing all the NBME assessment 24 tests, just time, practice, practice,</p>

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<p>1 practice.</p> <p>2 Q. Sitting here today, you</p> <p>3 don't think you could take Step 2 CK and</p> <p>4 pass it?</p> <p>5 A. I could probably take it.</p> <p>6 It's a matter of whether or not I can get</p> <p>7 the time to do it.</p> <p>8 Q. I meant if you took Step 2</p> <p>9 CK right now, do you think you would pass</p> <p>10 it?</p> <p>11 A. No. Probably not. I think</p> <p>12 there's a lot more you got to refresh on.</p> <p>13 Q. Does that hold true for Step</p> <p>14 1 as well?</p> <p>15 A. Step 1 is a whole different</p> <p>16 piece altogether.</p> <p>17 Q. And can you explain why that</p> <p>18 is?</p> <p>19 A. Because clinically you see a</p> <p>20 lot more things and you relate to a lot</p> <p>21 more things from a CK perspective. It's</p> <p>22 patient care. Step 1 is a lot of basic</p> <p>23 sciences, nitpicking, little details.</p> <p>24 You have to really get into the small</p>	<p>1 get a really good grade, it would take me</p> <p>2 about a year.</p> <p>3 Q. If you had to, would that be</p> <p>4 something you would be willing to do to</p> <p>5 enter the practice of medicine?</p> <p>6 A. Honestly, if I'm going to</p> <p>7 wind up trying to take my Step 1 and Step</p> <p>8 2 and everything all over again, I would</p> <p>9 need a guarantee of a residency at the</p> <p>10 end of that rainbow.</p> <p>11 Q. So is that a no?</p> <p>12 A. It's not something I want to</p> <p>13 do. I mean, if that's the only way, then</p> <p>14 the conversation would have to be had</p> <p>15 because that basically means I have to</p> <p>16 take myself out of working and out of</p> <p>17 everything for a year for that and then</p> <p>18 six months or so, and given my financial</p> <p>19 state at home, it's not an option right</p> <p>20 now.</p> <p>21 Q. Do you find your current job</p> <p>22 fulfilling?</p> <p>23 A. It's very fulfilling in that</p> <p>24 I'm in a healthcare organization. It's</p>
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<p>1 stuff. It's not big picture and it's not</p> <p>2 really treating.</p> <p>3 So it's understanding a lot</p> <p>4 more intricate details versus taking a</p> <p>5 patient and working through what they</p> <p>6 have, symptoms and so forth.</p> <p>7 Q. Could you describe just</p> <p>8 briefly the content of the Step 1 exam?</p> <p>9 That's the basic science exam, correct?</p> <p>10 A. Yes. That is the basic</p> <p>11 science exam. You have your anatomy,</p> <p>12 physiology. You have your pharmacology.</p> <p>13 You have your pathology, immunology,</p> <p>14 microbiology. What else is on those? I</p> <p>15 think a little bit of psychiatry. I</p> <p>16 forget the other.</p> <p>17 Q. What would be involved in</p> <p>18 getting ready to take Step 1 again?</p> <p>19 A. Everything. It's like</p> <p>20 learning -- you literally have to learn</p> <p>21 five semesters of work all over again.</p> <p>22 Q. So how much time do you have</p> <p>23 to take off?</p> <p>24 A. That, honestly, if I want to</p>	<p>1 very sad and depressing seeing patients</p> <p>2 come in and out knowing that I should be</p> <p>3 on the other side. And the salary,</p> <p>4 whatever the salary is, is really not as</p> <p>5 great considering what I need to get done</p> <p>6 because, trust me, I'd rather not be</p> <p>7 working three jobs and spend time with my</p> <p>8 little kids than be working all the time.</p> <p>9 Q. You're making over a</p> <p>10 \$115,000, correct?</p> <p>11 A. Well, I'm making 115 working</p> <p>12 four jobs, and I'm still paying off</p> <p>13 student loans, and I'm still paying off a</p> <p>14 lot of the other debt that we had to</p> <p>15 incur with other issues.</p> <p>16 Q. You testified early today</p> <p>17 that you have not had contact with -- is</p> <p>18 it Dr. Suliman?</p> <p>19 A. That's correct.</p> <p>20 Q. For quite some time?</p> <p>21 A. It's been years.</p> <p>22 Q. Have you had contact with</p> <p>23 anybody else from Optima since 2009?</p> <p>24 A. In terms of students or</p>

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<p>1 employees?</p> <p>2 Q. Anybody?</p> <p>3 A. Optima, students, if I see</p> <p>4 them at wedding events, we don't talk</p> <p>5 about Optima. We talk about our regular</p> <p>6 personal lives. I did have a</p> <p>7 conversation with the IT person who ran</p> <p>8 his thing a couple weeks ago.</p> <p>9 Q. And who is that?</p> <p>10 A. Adrian.</p> <p>11 Q. How did you get in contact</p> <p>12 with Adrian?</p> <p>13 A. I Facebooked him and had him</p> <p>14 call me back.</p> <p>15 Q. Do you have Facebook on your</p> <p>16 phone?</p> <p>17 A. No.</p> <p>18 Q. Does he have his last name</p> <p>19 on Facebook?</p> <p>20 A. I don't know, to be honest.</p> <p>21 I don't know if his name is there or if</p> <p>22 he has -- a lot of people change their</p> <p>23 names.</p> <p>24 Q. What was the nature of that</p>	<p>1 A. Less than three minutes.</p> <p>2 Three, four minutes.</p> <p>3 Q. And are you expecting him to</p> <p>4 get back to you?</p> <p>5 A. He says he will. I think</p> <p>6 before I get that, I think I'm going to</p> <p>7 have to reach out to him again.</p> <p>8 Q. Do you know where he's</p> <p>9 physically located?</p> <p>10 A. I think he's in Romania.</p> <p>11 Q. Were you able to see the</p> <p>12 return telephone number?</p> <p>13 A. No. He called me at work.</p> <p>14 Q. On a landline?</p> <p>15 A. Landline.</p> <p>16 Q. How did he know to call you</p> <p>17 at work?</p> <p>18 A. I told him to call me during</p> <p>19 the day.</p> <p>20 Q. Did you just have one</p> <p>21 Facebook message to him telling him to</p> <p>22 call you?</p> <p>23 A. No. I believe I tried to</p> <p>24 reach out to him a couple weeks prior.</p>
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<p>1 contact you had a few weeks ago with</p> <p>2 Adrian from Optima's IT?</p> <p>3 A. I basically wanted to know</p> <p>4 whether or not he had any information</p> <p>5 regarding when stuff was added to the</p> <p>6 server, and he said he doesn't work for</p> <p>7 Suliman anymore. He hasn't been paid in</p> <p>8 a long time.</p> <p>9 So, basically, the server,</p> <p>10 whatever he had, has been erased, but he</p> <p>11 said he would look into it to see if</p> <p>12 there was anything he could do to show</p> <p>13 when it is that his bank was updated</p> <p>14 versus when I took my exam.</p> <p>15 Q. Were these private messages</p> <p>16 on Facebook?</p> <p>17 A. No. He literally called me.</p> <p>18 Q. He called you. You had a</p> <p>19 telephone conversation?</p> <p>20 A. Yeah. I sent him a message</p> <p>21 saying I need to talk to you, so he got</p> <p>22 back to me a couple days later.</p> <p>23 Q. How long did this telephone</p> <p>24 conversation last?</p>	<p>1 He didn't get back to me and then at that</p> <p>2 point -- actually, I think we might have</p> <p>3 went back and forth a couple of times and</p> <p>4 then I told him, I need to talk to you</p> <p>5 regarding something. Call me.</p> <p>6 Q. Did you, in the messages</p> <p>7 going back and forth before you spoke on</p> <p>8 the phone, say what you needed to speak</p> <p>9 with him about?</p> <p>10 A. I basically said that I</p> <p>11 got -- I had been invalidated, and I'm in</p> <p>12 a situation where I'm about to try to get</p> <p>13 myself fixed so I need to talk to you.</p> <p>14 Q. In the time between the 2009</p> <p>15 time frame when things were going on and</p> <p>16 just this last couple weeks when you</p> <p>17 spoke with Adrian, have you had any other</p> <p>18 contact with Adrian in between that?</p> <p>19 A. I don't believe so. Unless</p> <p>20 it was a hi, bye. No conversations.</p> <p>21 Q. Do you know what Adrian is</p> <p>22 doing?</p> <p>23 A. He's an IT person so</p> <p>24 probably working doing something IT</p>

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<p>1 related.</p> <p>2 Q. Have you reached out to</p> <p>3 anybody else aside from Adrian for</p> <p>4 information regarding this case?</p> <p>5 A. No. I don't believe so.</p> <p>6 One of my friends was at Optima, and I</p> <p>7 spoke to him just briefly but nothing</p> <p>8 regarding the case.</p> <p>9 Q. Who is that?</p> <p>10 A. Jijoe.</p> <p>11 Q. Can you spell that for me?</p> <p>12 A. J-I-J-O-E.</p> <p>13 Q. And what's his last name?</p> <p>14 A. Joseph.</p> <p>15 Q. And you said he was a friend</p> <p>16 from Optima. Was he an employee?</p> <p>17 A. He was a friend of mine</p> <p>18 before Optima.</p> <p>19 Q. Did he attend Optima?</p> <p>20 A. He did not attend.</p> <p>21 Q. Did he work at Optima?</p> <p>22 A. He had done some lectures.</p> <p>23 Q. And when did you speak with</p> <p>24 him?</p>	<p>1 else in the last year, let's say, about</p> <p>2 your indeterminate score, not necessarily</p> <p>3 about this litigation in particular?</p> <p>4 A. Well, not this litigation.</p> <p>5 As my process was going through, Reeju, I</p> <p>6 had spoke to him because he had actually,</p> <p>7 you know, taken the thing, done a</p> <p>8 validation so I had mentioned to him.</p> <p>9 Sometimes I vent. He knows that I was</p> <p>10 going to go, but he's moved out to Cali</p> <p>11 since then so...</p> <p>12 Q. And this was Jijoe?</p> <p>13 A. No. Reeju. The name I had</p> <p>14 given -- one of the names I gave before.</p> <p>15 Q. R-I?</p> <p>16 A. R-E-E-J-U.</p> <p>17 Q. And you said he moved to</p> <p>18 California?</p> <p>19 A. He moved to California.</p> <p>20 Q. Do you speak with him by</p> <p>21 phone?</p> <p>22 A. Sometimes phone. Sometimes</p> <p>23 text.</p> <p>24 Q. And do you speak with</p>
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<p>1 A. Just we talk all the time</p> <p>2 but not regarding this. We're friends.</p> <p>3 Q. Did you speak with him</p> <p>4 regarding your indeterminate score?</p> <p>5 A. Back then everyone spoke to</p> <p>6 everyone about their indeterminate</p> <p>7 scores, so there was no pinpointing him</p> <p>8 over anyone else.</p> <p>9 Q. Have you discussed it with</p> <p>10 him more recently?</p> <p>11 A. I told him that I've</p> <p>12 gone -- I'm fighting it. I didn't go</p> <p>13 into any details of it.</p> <p>14 Q. When I was asking you about</p> <p>15 anyone else you spoke with, you mentioned</p> <p>16 Jijoe in particular. Is there a reason</p> <p>17 why?</p> <p>18 A. No, because you asked me and</p> <p>19 I'm under oath.</p> <p>20 Q. Is there anybody else?</p> <p>21 A. I don't remember really</p> <p>22 speaking about this case or anything to</p> <p>23 anybody else.</p> <p>24 Q. Did you speak to anybody</p>	<p>1 him -- have you spoken with him recently</p> <p>2 regarding your indeterminate score?</p> <p>3 A. No.</p> <p>4 Q. When's the last time you</p> <p>5 spoke with him about your indeterminate</p> <p>6 score?</p> <p>7 A. I think the last time I told</p> <p>8 him was when I finally got to see the</p> <p>9 judge. I told him that I did go before</p> <p>10 the judge, so things are progressing</p> <p>11 along and we'll see what happens.</p> <p>12 Q. But you've spoken to Reeju</p> <p>13 about this case?</p> <p>14 A. He knows that -- again, he</p> <p>15 knows that I'm fighting the case. He was</p> <p>16 actually from Pennsylvania, Philly, so in</p> <p>17 my attempt to also try to find counsel, I</p> <p>18 asked him does he know any lawyers.</p> <p>19 That's kind of how the door opened, but,</p> <p>20 again, we never got into any details</p> <p>21 about what's going on or what approach</p> <p>22 we're taking.</p> <p>23 (Whereupon, a document was</p> <p>24 marked for identification as</p>

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<p>1 Exhibit No. 62.)</p> <p>2 BY MS. McENROE:</p> <p>3 Q. Dr. Thomas, I'm handing you</p> <p>4 what I've marked as Exhibit 62. This is</p> <p>5 a document headed "USMLE and Appeals:</p> <p>6 The Hefty Burden Examiners Face in</p> <p>7 Appealing a USMLE Finding of</p> <p>8 Indeterminate Score or Irregular</p> <p>9 Behavior." Did I read that correctly?</p> <p>10 A. That's correct.</p> <p>11 Q. And this is written by</p> <p>12 Sherri Katz and Bob Bennett?</p> <p>13 A. Yes.</p> <p>14 Q. And then there's a footnote</p> <p>15 that says, The Bennett law firm would</p> <p>16 like to acknowledge the contribution of</p> <p>17 law clerk Whitney Campbell's research for</p> <p>18 this article.</p> <p>19 Do you see that?</p> <p>20 A. Yes.</p> <p>21 Q. I'd also like at the same</p> <p>22 time to point your attention to your</p> <p>23 amended complaint which is at tab 2.</p> <p>24 A. Yes.</p>	<p>1 hearing, that's the USMLE score validity?</p> <p>2 A. Score validity, yes.</p> <p>3 Q. And in your amended</p> <p>4 complaint you make references to a study</p> <p>5 being conducted in paragraph 15?</p> <p>6 A. Yes.</p> <p>7 Q. And then in paragraph 16 you</p> <p>8 cite to the Bennett law firm. Is that</p> <p>9 correct?</p> <p>10 A. Yes.</p> <p>11 Q. Is the study being conducted</p> <p>12 the Bennett law firm document I'm looking</p> <p>13 at as an exhibit?</p> <p>14 A. Yes, it is.</p> <p>15 Q. In particular, I'd like you</p> <p>16 to flip to paragraph 19 of your amended</p> <p>17 complaint, and you'll see you make</p> <p>18 reference to a student F and a student G?</p> <p>19 A. Yes.</p> <p>20 Q. Simultaneously, please flip</p> <p>21 ahead -- unfortunately, there aren't page</p> <p>22 numbers on this, but you'll see that</p> <p>23 there is a section that has information</p> <p>24 for a student F and a student G that's</p>
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<p>1 Q. You'll see this is the</p> <p>2 version of your amended complaint to</p> <p>3 which NBME's counsel inserted paragraph</p> <p>4 numbers, and I'd like to direct your</p> <p>5 attention specifically at paragraph 16.</p> <p>6 A. Yes.</p> <p>7 Q. That is a quote and then</p> <p>8 it's attributed to Bennett law firm. Is</p> <p>9 that correct?</p> <p>10 A. That's correct.</p> <p>11 Q. Is that the same Bennett law</p> <p>12 firm as in Exhibit 62 I gave you?</p> <p>13 A. Yes, it is.</p> <p>14 Q. Do they represent you?</p> <p>15 A. No.</p> <p>16 Q. Are you personally</p> <p>17 acquainted with anyone from the Bennett</p> <p>18 law firm?</p> <p>19 A. No. Bennett was known to be</p> <p>20 the person who did a lot of hearings, and</p> <p>21 I was actually going to consider taking</p> <p>22 his representation, but his fee was way</p> <p>23 too high during my initial hearing.</p> <p>24 Q. When you say your initial</p>	<p>1 single spaced in the Bennett law firm</p> <p>2 Exhibit 62 I gave you?</p> <p>3 A. Yes.</p> <p>4 Q. For student F in Exhibit 62</p> <p>5 it says percentage of exposed questions,</p> <p>6 15 percent and that's what you have in</p> <p>7 your amended complaint, correct?</p> <p>8 A. Yes.</p> <p>9 Q. Then for percent correct on</p> <p>10 exposed questions for student F, both</p> <p>11 documents have 83 percent; and percent</p> <p>12 correct on unexposed questions, both have</p> <p>13 67 percent; time spent on exposed</p> <p>14 questions, both have 43 seconds; time</p> <p>15 spent on unexposed questions, both have</p> <p>16 74 seconds, correct?</p> <p>17 A. I'm sorry. Are you looking</p> <p>18 at the complaint?</p> <p>19 Q. I'm comparing the amended</p> <p>20 complaint numbers to the numbers in</p> <p>21 Exhibit 62.</p> <p>22 A. Okay. So the percent</p> <p>23 exposed, 15 to 16.</p> <p>24 Q. Yes.</p>

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<p>1 A. The...</p> <p>2 Q. Percent correct on exposed</p> <p>3 questions.</p> <p>4 A. Where are you looking at</p> <p>5 that on the other one? Are you getting</p> <p>6 that from --</p> <p>7 Q. Yes. In this the pages are</p> <p>8 not numbered.</p> <p>9 A. Maybe I'm on a different</p> <p>10 page.</p> <p>11 Q. Yes. You're on a different</p> <p>12 page.</p> <p>13 A. What page are you looking</p> <p>14 for? The one that goes, on its face, a</p> <p>15 good faith argument?</p> <p>16 Q. Yes. We're in the same</p> <p>17 place.</p> <p>18 A. All right. These are the</p> <p>19 exact students.</p> <p>20 Q. So student F from your</p> <p>21 amended complaint is the same student F</p> <p>22 as from the Bennett law firm document?</p> <p>23 A. That is correct.</p> <p>24 Q. And student G from your</p>	<p>1 A. I can't validate based on</p> <p>2 the fact that the law firm would not be</p> <p>3 able to give any information to specific</p> <p>4 students, so I have to assume that</p> <p>5 because they put it out there as their</p> <p>6 way of trying to get students aware that</p> <p>7 it's legitimate.</p> <p>8 Q. Do you know who student G or</p> <p>9 F is?</p> <p>10 A. No.</p> <p>11 Q. You'll see some of the pages</p> <p>12 have footnotes at the bottom?</p> <p>13 A. Yes.</p> <p>14 Q. Can you please flip to</p> <p>15 footnote 7 in the Bennett law firm</p> <p>16 document?</p> <p>17 A. (Witness complies with</p> <p>18 request.</p> <p>19 Q. Footnote 7 reads: Some</p> <p>20 statistics have been altered to protect</p> <p>21 the identity of any student/doctor</p> <p>22 represented by the authors, correct?</p> <p>23 A. Yes.</p> <p>24 Q. Do you have any reason to</p>
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<p>1 amended complaint is the same student G</p> <p>2 from the Bennett law firm document?</p> <p>3 A. That's correct.</p> <p>4 Q. Have you ever discussed this</p> <p>5 Bennett law firm document with the</p> <p>6 Bennett law firm?</p> <p>7 A. I have not.</p> <p>8 Q. You mentioned that the</p> <p>9 Bennett law firm was known to be the guy?</p> <p>10 A. Yes. That's what I was</p> <p>11 told.</p> <p>12 Q. Amongst whom?</p> <p>13 A. Students who went to Optima</p> <p>14 who had to go before the hearing.</p> <p>15 Q. Do you have particular names</p> <p>16 of individuals?</p> <p>17 A. I do not.</p> <p>18 Q. How did you get this Bennett</p> <p>19 law firm document?</p> <p>20 A. It was actually posted on</p> <p>21 their website for a long time.</p> <p>22 Q. What steps have you taken to</p> <p>23 validate the information in this Bennett</p> <p>24 law firm document?</p>	<p>1 believe that's not true?</p> <p>2 A. No.</p> <p>3 Q. I'd like you to look ahead</p> <p>4 at footnote 13. Footnote 13 reads: Some</p> <p>5 percentage and statistics have been</p> <p>6 altered to protect the identity of any</p> <p>7 student.</p> <p>8 Did I read that correctly?</p> <p>9 A. Yes.</p> <p>10 Q. Do you have any reason to</p> <p>11 believe that's not true?</p> <p>12 A. No.</p> <p>13 Q. Yet you cite to those</p> <p>14 numbers in your amended complaint.</p> <p>15 That's correct, right?</p> <p>16 A. Yes.</p> <p>17 Q. You made a personal</p> <p>18 appearance before the USMLE committee,</p> <p>19 correct?</p> <p>20 A. Yes, I did.</p> <p>21 Q. You had the opportunity to</p> <p>22 bring counsel. Am I correct?</p> <p>23 A. Yes.</p> <p>24 Q. You had the opportunity to</p>

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<p>1 bring the Bennett law firm if you had 2 wanted? 3 A. Yes. 4 Q. You chose not to do that, 5 correct? 6 A. I chose not to do that. 7 Q. Are you familiar with the 8 term "irregular behavior"? 9 A. Yes. 10 Q. You understand that ECFMG 11 and USMLE each have policies and 12 procedures with respect to irregular 13 behavior? 14 A. Yes, I do. 15 Q. Have you been -- strike 16 that. 17 You have not been accused of 18 irregular behavior by ECFMG, correct? 19 A. No, I have not. 20 Q. You have not been accused of 21 irregular behavior by USMLE, correct? 22 A. No, I have not. 23 Q. You have not been accused of 24 irregular behavior by NBME, correct?</p>	<p>1 the answers you've given? 2 A. I don't think so. 3 Q. You mentioned earlier today 4 that you had bumped your head this past 5 weekend? 6 A. Yes. 7 Q. Is that correct? 8 Did that impair your memory 9 in any way? 10 A. I don't think so. 11 Q. You were cleared having had 12 a CT scan by a doctor. Is that correct? 13 A. Yes. 14 Q. Do you think that affected 15 your appearance today? 16 A. I don't think so. 17 Q. Do you have any reason to 18 believe it did? 19 A. I just had some symptoms 20 yesterday, headache and everything, but 21 today I don't seem -- I seem fine today. 22 * * * 23 RE-EXAMINATION 24 BY MS. HOLLAND:</p>
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<p>1 A. No, I have not. 2 Q. You have an understanding of 3 the what the word "indeterminate" means? 4 A. Yes. I think so. 5 Q. What is your understanding 6 of that word? 7 A. That they can't determine. 8 Q. Can't determine what? 9 A. Well, according to this, if 10 we're talking about the value of the 11 validity of the exam, they're saying they 12 cannot determine whether the exam is 13 valid or not. 14 MS. McENROE: Let's take a 15 quick break. 16 (A short break was taken.) 17 BY MS. McENROE: 18 Q. Dr. Thomas, you understand 19 you've been testifying under oath today? 20 A. Yes. 21 Q. Have the answers you've 22 given us today been truthful? 23 A. I believe so. 24 Q. Do you wish to change any of</p>	<p>1 Q. Dr. Thomas, you used the 2 words "I don't think so," and I just want 3 to make sure that I'm distinguishing 4 between a figure of speech that you may 5 use and -- because these are important 6 questions. 7 Is everything that you've 8 told us here today the truth? 9 A. I believe it is. 10 Q. Okay. 11 A. It is. 12 Q. Is there a reason why you 13 qualify it by saying I believe it is? 14 A. It is. To my memory, it is. 15 Q. And is there any reason why 16 your memory is incomplete or inaccurate 17 today? 18 A. I don't believe so. 19 MS. McENROE: So at this 20 point, we don't have any further 21 questions. What we're going to do 22 is suspend the deposition, so 23 we're going to finish for today. 24 There are a couple of things</p>

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<p style="text-align: right;">Page 306</p> <p>1 that we'd like to follow up with  2 you on and we'll do that in the  3 coming days with respect to, for  4 example, Adrian that you had  5 mentioned and so pending getting  6 more information on that that we  7 would need to re-open your  8 deposition, we don't have any  9 further questions today. Do you  10 understand?  11 THE WITNESS: I understand.  12 (Deposition was concluded at  13 3:39 p.m.)  14  15  16  17  18  19  20  21  22  23  24</p>	<p style="text-align: right;">Page 308</p> <p>1 INSTRUCTIONS TO WITNESS  2 Please read your deposition  3 over carefully and make any  4 necessary corrections. You should  5 state the reason in the  6 appropriate space on the errata  7 sheet for any corrections that are  8 made.  9 After doing so, please sign  10 the errata sheet and date it. You  11 are signing same subject to the  12 changes you have noted on the  13 errata sheet, which will be  14 attached to your deposition.  15 It is imperative that you  16 return the original errata sheet  17 to the deposing attorney within  18 thirty (30) days of receipt of the  19 deposition transcript by you. If  20 you fail to do so, the deposition  21 transcript may be deemed to be  22 accurate and may be used in court.  23  24</p>
<p style="text-align: right;">Page 307</p> <p>1 CERTIFICATE  2  3 I do hereby certify that I  4 am a Notary Public in good  5 standing, that the aforesaid  6 testimony was taken before me,  7 pursuant to notice, at the time  8 and place indicated; that said  9 deponent was by me duly sworn to  10 tell the truth, the whole truth,  11 and nothing but the truth; that  12 the testimony of said deponent was  13 correctly recorded in machine  14 shorthand by me and thereafter  15 transcribed under my supervision  16 with computer-aided transcription;  17 that the deposition is a true and  18 correct record of the testimony  19 given by the witness; and that I  20 am neither of counsel nor kin to  21 any party in said action, nor  22 interested in the outcome thereof.  23  24 WITNESS my hand and official seal  this 15th day of January, 2014.</p> <p style="text-align: right;">_____  Lauren A. Moore  Notary Public</p>	<p style="text-align: right;">Page 309</p> <p>1 - - - - -  2 E R R A T A  3 - - - - -  4 PAGE LINE CHANGE  5  6 REASON: _____  7  8 REASON: _____  9  10 REASON: _____  11  12 REASON: _____  13  14 REASON: _____  15  16 REASON: _____  17  18 REASON: _____  19  20 REASON: _____  21  22 REASON: _____  23  24 REASON: _____</p>

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ACKNOWLEDGMENT OF DEPONENT

I, \_\_\_\_\_, do  
hereby certify that I have read the  
foregoing pages, and that the same is  
a correct transcription of the answers  
given by me to the questions therein  
propounded, except for the corrections or  
changes in form or substance, if any,  
noted in the attached Errata Sheet.

\_\_\_\_\_  
MATHEW THOMAS, JR., M.D.      DATE

Subscribed and sworn  
to before me this  
\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.  
My commission expires: \_\_\_\_\_

\_\_\_\_\_  
Notary Public

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